

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 19 AUGUST 2014.

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

Apologies – Councillor Cathy Muldoon

1. DECLARATIONS OF INTEREST

- Agendas Item 7 & 8 – Councillor Danny Logue declared a non-financial interest in that he was an NHS Lothian employee; and
- Agenda Items 7 & 8 – Councillor Peter Johnston declared a non-financial interest as a Non-Executive Director of NHS Lothian and as a Non-Executive Director of Healthcare Improvement Scotland, for which a specific exclusion applied.

2. MINUTE

The Council Executive confirmed the Minute of the meeting held on 5 August 2014. The Minute was thereafter signed by the Chair.

3. WEST LOTHIAN COUNCIL COSLA MEMBERSHIP

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the terms of Paragraph 16 of the Cosla Constitution and the requirements for the council if membership of the convention was terminated.

The Head of Corporate Services explained that in terms of Paragraph 16.1 of the Cosla Constitution (The Constitution) convention members were 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 of 1 April 2015, but reserved the right to withdraw that notice at any point during 2014-15.

The council paid an annual subscription for membership of Cosla.

Paragraph 16.2 of the Constitution provided that any member council who terminated their membership of the convention would 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 would be calculated in the same proportion as the subscription paid when the council was a member.

Cosla's Chief Executive had set out his interpretation of the council's liabilities, in confidential letters to the Chief Executive, date 10 and 15

April and 27 May 2014. In these letters, it was made clear that Cosla's position was that the council would be liable to pay a share of Cosla's ongoing running costs, such as rent of premises or employee costs, even after membership was terminated. This was 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 had considered the terms of the constitution and did not agree with the interpretation applied by Cosla's Chief Executive.

It was recommended that the Council Executive :-

1. Note the terms of Paragraph 16 of the Cosla Constitution; and
2. Advise of any further actions required.

Motion

"Council Executive notes with concern recent press speculation concerning the Council's membership of Cosla.

Council Executive agrees to

Instruct the Chief Executive to write to the Cosla President to ask that he investigate the circumstances by which information concerning West Lothian Council's membership of COSLA appeared in the media without the knowledge of West Lothian Council and to report back to a future meeting of the Council Executive.

Retain the precautionary position adopted by West Lothian Council and restates the intention of West Lothian Council to terminate membership of COSLA from 1 April 2015, whilst reserving the right to withdraw its notice of termination at any point during 2014/15."

- Moved by the Chair and seconded by Councillor Conn

Amendment

"West Lothian Council recalls the decision of the Council Executive on 4th March 2014 to ;

- Note that the COSLA Leaders Meeting has agreed that the issue of the 2015/16 settlement will be considered further when it meets in April 2014.
- In the light of the continuing uncertainty over COSLA and the budget pressures facing the Council, Council Executive agrees to adopt a precautionary position and to advise COSLA prior to 31 March 2014 of the intention of West Lothian Council to terminate membership of COSLA from 1 April 2015, but reserves the right to withdraw its notice of termination at any point during 2015/15.
- Instructs officers to examine how national collective bargaining will

continue where some councils are not members of COSLA.

Council notes that the Council Executive decision of 4th March was taken without any report detailing the responsibilities by the Council as a COSLA member and the consequences for this Council of withdrawal from COSLA.

West Lothian Council therefore firstly notes the statement made by the Scottish Local Government Minister that whilst the Government will be willing to talk to any council negotiations will **ONLY** take place with COSLA.

Council therefore notes with concern that a withdrawal from COSLA will effectively remove from this council any ability to influence and shape policy development and legislation affecting local government the distribution of local government finance and resources and the whole range of local government services including social policy, transport, education, the environment and housing.

West Lothian Council agrees that local government's interests as a sector are best served by a framework that covers basic pay increase and core conditions of service. Whilst decisions about how much an individual is actually paid are made at the local level, based on local grading structures and job evaluation, with the addition of any local allowances as appropriate, Council agrees that national pay bargaining within a devolved framework, however, continues to deliver affordable and sustainable, fair pay deals with a minimum of industrial disruption.

Council further accepts that there are sound arguments in favour of national bargaining as this provides :-

- Major economies of scale in resources devoted to negotiation, allowing hard-pressed HR teams across the country to progress other priorities.
- A common approach to the trade unions.
- Strength and coherence in relationships with Government and key partners.
- Well-managed growth in pay in the long term, compared with other sectors.
- An ability to act in a usefully coordinated way on big national issues (Living Wage).
- An effective way of developing terms and conditions by collective agreement that acts directly on to contracts and applies to all individuals thereby allowing change to happen much more easily.
- It helps to sensibly regulate the competition for talent between neighbouring councils.
- National collective bargaining also allows the sector to control and

own decisions on pay and conditions and to agree compromises when they are in the interests of both employers and employees.

Council therefore notes with extreme concern that a decision to leave COSLA would remove West Lothian Council from the national bargaining process and in addition place in serious jeopardy membership of **MyJobScotland, Business Gateway, the Employers Function, the Strategic Migration Partnership and Trading Standards Scotland.**

Council further notes that the COSLA Constitution (dated 30 March 2012) ("the Constitution") is a legally binding contract between the member authorities and defines the rights and duties of these member authorities. It established COSLA as an unincorporated association and so both of the laws of contract and unincorporated associations are relevant.

Council further notes that this Constitution provides the COSLA members are legally obliged to contribute financially towards the liabilities incurred by COSLA. Those liabilities include rent and other payments under the lease for COSLA's premises, and staff wages and superannuation. As COSLA is an unincorporated association, COSLA members cannot, by terminating their COSLA membership, avoid a liability they would otherwise incur if that liability had already arisen or was known to be impending prior to any notice of termination. Further, COSLA members cannot escape liability in respect of a contract entered into prior to their resignation. This means that Councils are required to contribute their share of the liabilities incurred by COSLA even if they terminate their COSLA membership.

Council further notes that Paragraph 16.2 of the COSLA Constitution provides 2 additional conditions of termination.

- The first condition is that upon ceasing to be a member, that member forfeits all rights and claims upon the association with regards to its assets.
- The second condition is that the member must pay its share of responsibility towards the liabilities incurred by COSLA during the currency of the member's membership. Liabilities are incurred when a contract is entered into.

Council further notes that this means that Councils who have indicated their intention to terminate their COSLA membership must pay their share of the rent of COSLA's lease, and staff wages and superannuation, entered into when that Council was a member of COSLA.

Council further notes that this means West Lothian Council will be liable to make a payment of £417,836 to COSLA should it fail to withdraw its termination of membership of COSLA from 1 April 2015.

In light of all of the above West Lothian Council Executive agrees, in accordance with the decision of the Council Executive of 4th March 2014. To withdraw its notice of termination of membership of COSLA and instructs the Chief Executive to write to COSLA making this position

clear”.

- Moved by Councillor Johnston and seconded by Councillor Anderson

Decision

Following a vote the motion was successful by 10 votes to 2 and it was agreed accordingly.

4. FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 - AN UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services advising of the progress being made with the implementation of the requirements of the Flood Risk Management (Scotland) Act 2009, to update the Scheme of Delegation to Officer's and to outline the process, key stages and proposed decision-making arrangements.

The Head of Operational Services advised that 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. Local Authorities, the Scottish Environment Protection Agency (SEPA) and Scottish Water all had 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.

For the purpose of managing flood risk, Scotland had been divided into 14 Local Plan Districts (LPD's). Each LPD had a partnership and a lead local authority. SEPA would produce a Flood Risk Management Plan for each district and the lead local authority would produce a Local Flood Risk Management Plan in liaison with member authorities.

The Flood Risk Management Strategy being produced by SEPA would identify the main flood hazards and impacts, set out objectives for reducing risk of flooding and identify the best combination of actions to achieve this. The Local Flood Risk Management Plan would then take these objectives and explain what actions would be taken to deliver them within a six-year planning cycle. The first cycle would run from 2015 to 2021.

The Head of Operational Services continued to explain that the council's current Scheme of Delegation referred to previous flood-related legislation which had now been repealed. Therefore it was proposed that the wording in the Scheme of Delegation would be revised to reflect the requirements outlined in the Flood Risk Management (Scotland) Act 2009, details of which were summarised in the report.

The report continued to provide information on governance arrangements, surface water management planning, flood hazard maps, awareness raising and potential risk to council assets and other critical infrastructure.

The report concluded that the Flood Risk Management (Scotland) Act 2009 had introduced a proactive, plan-led catchment-wide and risk-based approach to manage the risk of flooding across Scotland over separate six-yearly cycles.

It was recommended that the Council Executive :-

1. Note the progress that was being made implementing the requirements of the Flood Risk Management (Scotland) Act 2009;
2. Approve the proposed revision to the Scheme of Delegation to Officers to reflect the new duties placed on the council by the Flood Risk Management (Scotland) Act 2009;
3. Agree that decision making powers in relation to high-level and technical matters associated with the development of the Local Flood Risk Management Plans (LFRMP's) be delegated to the Head of Operational Services; and
4. 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 were being put in place to raise awareness and allow consideration of safety, business continuity and mitigation measures.

Decision

To approve the terms of the report.

5. DRAFT REGULATIONS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) CT 2014 - SET 2 - CONSULTATION RESPONSE

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive, Community Health and Care Partnership advising of a draft response to Set 2 of the draft Regulations related to the Public Bodies (Joint Working) (Scotland) Act 2014, a copy of which was attached to the report at Appendix 1.

The Panel were advised that 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 would then put in place a framework for integrating health and social care in Scotland and provide the legislative framework for NHS Boards and local authority partners to establish Integration Authorities.

The policy intention was 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 were nationally agreed outcomes, an Integration Scheme, a Strategic Plan, locality planning and integrated budgets. It was intended that budgets and resources would be integrated to focus attention on the outcome for the individual, which would 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 was currently consulting on the secondary legislation that would underpin the Act and public consultation would follow. Consultation on the first set of draft Regulations would run for 12 weeks from 12 May until 1 August 2014; these had been approved by the Council Executive at its meeting on 19 June 2014. Consultation on the second set would run for 12 weeks from 27 May to 18 August 2014. Following the completion of the consultation on both sets of draft Regulations an analysis of written responses would be published.

The final version of each would then be laid before Parliament from late September 2014 before coming into force by the end of 2014.

There were five subjects covered in the second consultation and these were summarised in the report.

The Council Executive were 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.

Decision

1. To approve the terms of the report; and
2. Agreed to include in the response, reference to the inclusion of partnership representatives on the Integrated Boards and for them to having voting rights.

6. RESPONSE TO NHS Lothian Draft Strategic Plan 2014-2024

The Council Executive considered a report (copies of which had been circulated) by the Deputy Chief Executive, Community Health and Care Partnership seeking approval of a draft response to NHS Lothian's draft Strategic Plan 2014-2024, a copy of which was attached to the report at Appendix 1.

The Deputy Chief Executive advised that NHS Lothian's Strategic Plan set 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 2014 and had been subject to staff and public consultation across Lothian.

Attached to the report was a draft response reflecting comments in

relation to the delivery of the plan in West Lothian and it was recommended that the Council Executive approve the draft response for submission to NHS Lothian.

Motion

“Council Executive agrees to add the following to the draft response :-

To seek an assurance that a fully operational 24 hour Paediatrics Ward and Accident and Emergency Unit will be retained at St John's Hospital during the lifetime of the Strategic Plan.

To seek an assurance that NHS Lothian will investigate options to secure the return of Trauma Orthopaedics and General Emergency Surgery to St John's Hospital site as part of the Strategic Plan, and that these will be reported to the NHS Board.

- Moved by Councillor McMillan and seconded by Councillor McGinty

Decision

To unanimously approve the terms of the motion.

7. POTENTIAL IMPACT OF INDEPENDENCE

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates advising of the potential financial impact on the council in the event of Scotland becoming an independent nation state.

The Head of Finance and Estates advised that officers had been reviewing information from a wide range of resources on the potential impact of Scotland becoming an independent nation state and some of the key issues considered were the level of public debt and the division of assets, future spending and revenue levels and currency options.

In the current economic climate there were a number of key factors that could affect West Lothian Council's ability to provide services to local communities and some of these were explored in the report and included the future population, income and expenditure, employment, business support, tourism and European Structural funding amongst others.

The Head of Finance and Estates concluded that the report set out the general issues that would be impacted by Scotland becoming an independent nation and illustrated the very broad range of factors that could influence the council's financial position in the future.

It was recommended that the Council Executive note the report and advise of any further action required.

Motion

“Council Executive agrees that those who propose the break-up of the United Kingdom have failed to demonstrate how this move would be in the best interests of the people of West Lothian and of Scotland.

Council Executive therefore agrees that the interests of the people of West Lothian and of Scotland would be best served by rejecting the SNP’s plans for Independence on September 18th and by voting to stay part of a United Kingdom with a stronger voice for Scotland.

- Moved by Councillor Fitzpatrick and seconded by Councillor Logue.

Amendment

“West Lothian Council accepts that Scotland is one of the wealthiest countries in the world and looks forward to the opportunities presented by Independence to further develop the powers available to local government and to work to create a better, fairer and more equal society”.

- Moved by Councillor Johnston and seconded by Councillor Anderson

Decision

Following a vote the motion was successful by 10 votes to 2 and it was agreed accordingly.

8. PROCUREMENT ARRANGEMENTS - SUPPLY, INSTALLATION AND MAINTENANCE OF FLOOR COVERINGS

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates seeking approval to commence tendering procedures for the procurement of a three year contract, with the option of a 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 report.

The Head of Finance and Estates advised that the service being tendered for was to supply, install and maintain floor coverings, encompassing rubber, cork, linoleum, carpet, tiling, sheeting, timber boarding and strip flooring across the property portfolio. The contract would include a 24/7 emergency call out service for the full period of the contract including public holidays with a response time of three hours for emergency call outs.

The contract would ensure that all work was done in compliance with BS8000 Basic Workmanship, which related to recommendations on working methods within the province and responsibility of the contractor wherein compliance would be deemed to be a matter of general industry good practice.

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

The requirement would be advertised in accordance with the European Union Directives and it was proposed that the Open Procedure would be used as this was predominately a supply contract. The criteria to be applied at the tender stage would be 70% price and 30% quality.

The report continued to provide information in relation to budget implications and sustainability considerations.

It was recommended that the Council Executive approve :-

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 would be invited to tender; and
2. The award criteria as set out in Section D of the report.

Decision

To approve the terms of the report

9. CHANGES TO THE STANDING ORDERS FOR THE REGULATION OF CONTRACTS

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates to consider the changes to the council's procurement financial thresholds and business case exemption authorisation process within Standing Orders for the Regulation of Contracts.

The Head of Finance and Estates explained that the council's procurement financial thresholds were set out in Standing Orders for the Regulation of Contracts which specified the procurement requirements that must be met for each contract value. A table within the report demonstrated the current procurement requirements and thresholds.

Also contained within Standing Orders for the Regulation of Contracts was the exemption process where the minimum procurement requirement could not be met. This meant that at present the Chief Executive may, in exceptional circumstances, authorise a contract to be entered into without subjecting the contract to competition where the estimated contract value did not exceed £50,000

In order to ensure that the council continued to make best use of resources and efficient use of staff time it was proposed to make a number of amendments to the procurement financial thresholds and business case exemption authorisation process within Standing Orders for the Regulation of Contracts a summary of which were provided in the report. This included revised procurement threshold requirements, a revised exemption authorisation process and new compliance monitoring

arrangements.

It was recommended that the Council Executive :-

1. Approve the revisions to the council's procurement financial threshold, as set out in Section D.4.1 of the report and as summarised in Appendix 1;
2. Approve the revisions to the council's Standing Order 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; and
3. Authorise 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 publish these changes, effective from 19 August 2014.

Decision

To approve the terms of the report.

10. 18 DUNNET WAY, EAST MAINS INDUSTRIAL ESTATE, BROXBURN - PROPOSED SALE TO GORDON BOW HIRE LTD SMALL SELF-ADMINISTERED SCHEME (SSAS)

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates seeking approval for the sale of 18 Dunnet Way, East Mains Industrial Estate, Broxburn, to Gordon Bow Plant Hire Ltd Small Self-Administered Scheme (SSAS).

The Head of Finance and Estates advised that the property at 18 Dunnet Way comprised two detached industrial units with a small shared access road between the two units. The area of the combined units extended to 2,327sqm on a site of 0.88ha.

The property was vacated in February 2011 when Kerry Ingredients (UK) Ltd terminated their lease and paid a dilapidation settlement for accrued repairs. Since 2011 the council had 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. However there has been limited interest in the leasing market place for the unit mainly due to the size of the property, its condition and its configuration as two separate structures.

Therefore with continuing uncertainty in the rental market it was considered that the council's best interests would be served by selling the property and reinvesting the proceeds. Accordingly the property was marketed for sale, generating four notes of interest. By the closing date of 1 July 2014, a single offer had been received of £480,000. As this figure was below the market value further discussions were undertaken with the prospective buyer and a figure of £530,000 was provisionally agreed.

The buyer was the pension fund of Gordon Bow Plant Hire Ltd who intended to undertake a limited refurbishment of the front building and lease part of the property to a local company.

Therefore it was recommended that Council Executive :-

1. Approve 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; and
2. Grant delegated powers to the Head of Finance and Estates 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 represented best value for the council.

Decision

To approve the terms of the report

11. REVIEW OF ANTISOCIAL BEHAVIOUR NOISE REGIME

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Construction and Building Services providing a draft 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.

The Head of Housing, Construction and Building Services explained that the Antisocial Behaviour, etc. (Scotland) Act 2004 provided that a person engaged in antisocial behaviour if they acted in a manner that caused or was likely to cause alarm or distress; or pursue a course of conduct that caused or was likely to cause alarm or distress to at least one person not of the same household as them.

The noise provisions came into force in 2005 and introduced a fixed penalty notice deterrent for domestic noise offences for any part of the day or night. When the regime was first introduced it was well received with Local Authorities finding that their noise problems could be resolved quickly.

Since it was ten years since the regime was introduced the Scottish Government wished to ensure that it remained relevant and had therefore called for evidence to support a policy review of the noise regime under Part 5 of the Act.

West Lothian Council officers had asked for a response from a number of partners and members of the public, in order to formulate a response to the Scottish Government. The questions to the call for evidence were attached to the report at Appendix 1 and the proposed response was attached to the report at Appendix 2.

Council Executive was invited to approve the response to the Scottish

Government on the Review of Antisocial Behaviour noise regime as attached to the report.

Decision

To approve the terms of the report.

12. UPDATE ON THE 1,000 NEW BUILD COUNCIL HOUSE PROGRAMME

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Construction and Building Services providing an update on the 1,000 new build council house programme and to seek approval for changes to the approved programme.

It was recommended that Council Executive :-

1. Note that a site start had been made at West Main Street, Broxburn;
2. Note that the conversion of the property 43–47 Adelaide Street, Livingston to six flats would be completed in August 2014;
3. Note that a planning application for planning permission in principle had been submitted for council housing at Deans South;
4. Note that Lovell Partnership was the successful contractor for Lots 1 and 2;
5. Note that tender returns for Lot 3 were due on 27 August 2014;
6. Note that indicative timescales for progressing Lots 4 & 5 as set out in section D5 of the report;
7. Note that it had 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 had been increased to help compensate;
8. Agree that the sites at Mayfield and Philipstoun were moved from the reserve list to be included in the programme to compensate for the reduction in units on other sites;
9. Note that there had been positive engagement with several home owners at Bathville Cross but there was a risk that some of the proposed new build units in this location may not be delivered and there was a need to identify a fall back site if some of the units could not be delivered;
10. Agree that land at Glen Road, Deans was included as a provisional site in Lot 5 in case there was any difficulty in delivering the proposed new build at Bathville Cross; and

11. Agree that four additional sites were added to the reserve list of sites for the programme.

The Head of Housing, Construction and Building Service explained that the council's Corporate Plan 2013 to 2017 committed 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 the 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 was attached to the report at Appendix 1.

The report then provided a summary on progress to date with the new build programme.

Decision

To approve the terms of the report

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

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services inviting consideration of a response to the consultation on proposals to reform Fatal Accident Inquiries Legislation.

The Head of Corporate Services explained that 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 review 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 was now consulting on the recommendations made by Lord

Cullen, with a view to modernising the way in which Fatal Accident Inquiries were conducted and managed in Scotland. This included the proposal to implement new legislation to govern Fatal Accident Inquiries and update the existing legislative framework contained within the Fatal Accidents and Sudden Death 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 would be mandatory to hold a fatal accident inquiry. It would also oblige those to whom the Sheriff directed recommendations at the conclusion of the inquiry to respond to the Sheriff about compliance and other matters.

The Head of Corporate Services further advised that the council was not often represented at Fatal Accident Inquiries but was recently, following a fatal road incident. As a result the council had recent, relevant experience of the existing framework, which allowed for reflection on the whole process and this was captured in the proposed response which was attached to the report at Appendix 1.

Therefore it was recommended that the Council Executive approve the response set out in Appendix 1, for submission to the Scottish Government.

Decision

To approve the terms of the report.

14. CLOSURE OF ROYAL BANK BRANCHES

The Council Executive considered a report (copies of which had been circulated) by the Deputy Chief Executive, Education, Planning and Area Services advising of plans announced by the Royal Bank of Scotland (RBS) to close two branches in West Lothian.

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

Branch closures in the City of Edinburgh had also been announced and in East Lothian two branches had closed at the end of June 2014.

On 6 August 2014 RBS announced plans to close two branches in West Lothian; these being a branch in Armadale and a branch in Fauldhouse. In addition the branch in Harthill would also be closed.

RBS had eight branches in West Lothian, employing over 90 staff. The Armadale branch employed nine staff and the Fauldhouse branch a similar amount. Both branches would close on 4 November 2014.

In some cases the closure of branches had been followed by the use of mobile banks together with some banking offered at local post offices.

It was recommended that the Council Executive consider the details of the proposed branch closures and consider the council's response to the proposals.

Motion

"Council Executive condemns the decision by the Royal Bank of Scotland to close branches in Armadale and Fauldhouse and notes that members of the local communities have been loyal customers over many years, along with local businesses and community groups who depend on the branches.

Council Executive demands that RBS reconsider their decision and instructs officers to set up a meeting between senior RBS officers and the appropriate Executive Councillors to discuss possible alternatives to closure."

- Moved by Councillor Dixon and seconded by Councillor Paul

Decision

To unanimously agree the terms of the motion.

15. COUNCILLORS' CODE OF CONDUCT - ANNUAL REVIEW 2013-14

The Council Executive considered a report (copies of which had been circulated) by the Chief Legal Officer fulfilling a requirement of the council's Code of Corporate Governance which required an annual review of the operation of the Code and to maintain awareness of the provisions of the Councillor's 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 Council Executive 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.

It was recommended that the Council Executive note the terms of the report.

Decision

To note the terms of the report.