

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 16 DECEMBER 2014.

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

1. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

The Chair ruled in terms of Standing Order 7 (Urgent Business) that an additional item of business concerning the Local Government Finance Settlement 2015-16 would be considered after Agenda Item 19 as officers had only just finished compiling the report following delivery of the budget in the Scottish Parliament late on 11 December 2014.

2. DECLARATIONS OF INTEREST

Agenda Item 12 (Partnership Centre) & 15 (E-Cigarettes Consultation Response) – Councillor 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. He also declared an interest as COSLA's spokesperson for Health and Well-Being Strategic Group.

3. MINUTE

The Council Executive confirmed the Minute of the meeting held on 2 December 2014. The Minute was thereafter signed by the Chair.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - REVIEW OF STREET TRADER'S LICENCE

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the consultation undertaken regarding proposed consolidated and amended standard street trader's licence conditions in West Lothian and to invite the Council Executive to consider the terms of the proposed consolidated and amended conditions.

The Head of Corporate Services advised that in terms of section 39 of the Civic Government (Scotland) Act 1982, a licence, to be known as a street trader's licence, was required for street trading. In practice street trading involved the sale of food and non-food by a wide variety of different traders and commercial operators.

In terms of section 3b of the 1982 Act, the council as licensing authority could determine conditions to which street trader's licences issued in West Lothian were to be subject. These conditions were known as

“standard conditions”.

The council’s current standard conditions for street trader’s licences were introduced in or around the same time as the council passed a resolution stating that, from 5 June 1989, all classes of street trading in West Lothian required to be licensed. The standard conditions had not been subject to formal review since they were introduced.

Currently the council had four different sets of standard conditions for street trader’s licence detailed as follows :-

- Employee’s licence conditions;
- Operator’s licence conditions;
- Non-food operator’s conditions; and
- Conditions for wheeled bin cleansing.

In order to simplify the conditions it was proposed that amended and consolidated conditions be introduced which would apply to all street traders’ licences. The amended and consolidated conditions proposed (1) general conditions for all street trader’s licences and (2) specific conditions for different activities undertaken as part of street trading. A summary of the proposed changes were detailed in the report.

The Head of Corporate Services continued to advise that consultation regarding the amendments was undertaken between 8 July 2014 and 5 August 2014, details of which were attached to the report in a series of appendices.

It was also proposed that the proposed standard conditions would apply immediately to all new street traders’ licences.

It was recommended that the Council Executive :-

1. Note that a period of consultation had been undertaken regarding the proposed standard conditions which had generated the responses summarised in Appendices 2 and 4 attached to the report;
2. Make a decision as to what proposed standard condition 3 was to contain in relation to street trading outside schools while being used as such;
3. Approve the proposed standard conditions with effect from 1 January 2015 for all new street trader’s licence;
4. Approve the commencement of the statutory process of variation of all existing street trader’s licences to include the revised standard conditions; and
5. Approve the delegation of authority to the Licensing Committee to vary all existing street trader’s licences to include the revised

standard existing conditions.

#### Motion

“Council Executive agrees to recommendations 1, 3, 4 and 5 and agrees to remove recommendation 2 and replace with :-

Agrees that the proposed standard condition 3 should increase the distanced in relation to street trading outside schools from 100 metres to 200 metres”.

- Moved by Councillor Conn and seconded by Councillor Fitzpatrick

#### Decision

To unanimously agree the terms of the motion.

### 5. AN ENTERPRISING THIRD SECTOR FRAMEWORK

The Council Executive considered a report (copies of which had been circulated) by the Head of Area Services providing an update on the development of an Enterprising Third Sector Framework (ETSF) which met the council’s commitment to “develop and fund a comprehensive Social Enterprise Strategy for West Lothian”.

The Head of Area Services explained that the framework, a copy of which was attached to the report at Appendix 1, proposed a vision to create a fairer and more cohesive community in West Lothian by developing an effective working alliance between the third, public and private sectors in order to reduce social inequality and poverty, build community leadership and cohesion and protect the natural environment.

The framework had four key themes :-

- Enhancing the business capacity of enterprising third sector organisations;
- Addressing skills shortage in organisations and trustees/directors;
- Involving WLSN; and
- Improving awareness of council staff and elected members

The framework also suggested a number of key aims and objectives and these were summarised in the report.

It was recommended that the Council Executive approve the Enterprising Third Sector Framework.

#### Decision

To approve the terms of the report

6. SCOTTISH FIRE AND RESCUE SERVICE - SPECIAL APPLIANCE REVIEW

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Construction and Building Services advising of the outcome of the Scottish Fire and Rescue Service (SFRS) review of special appliances and its impact on West Lothian.

The Head of Housing, Construction and Building Services advised that SFRS had recently published their review of Specialist Appliances, a copy of which was attached to the report at Appendix 1, for consideration by stakeholders. The review followed the establishment of a single service for Scotland and the efficiencies achieved through that process.

In undertaking the review a number of key principles were acknowledged and these were detailed in the report. Additionally by recognising the wide range of specialist resources involved the review had been divided into 16 separate strands which were also detailed in the report.

The Special Appliances Review was currently in draft form and awaiting approval by the SFRS Board. Upon approval, a detailed three year implementation plan would be developed to implement the recommendations contained within the report.

The report continued to provide a summary of the implications for West Lothian noting that as the strategy would take three years to fully implement some of the recommendations may change due to the dynamic nature of the environment in which the SFRS operated.

It was recommended that the Council Executive :-

1. Notes the review outcome;
2. Welcomes the location of specialist appliances at Bathgate and Livingston Fire Stations; and
3. Seeks consultation from the SFRS on the detailed implementation plans with any implications for SFRS staff resources in West Lothian.

Decision

To approve the terms of the report

7. DEANS SOUTH, LIVINGSTON

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Construction and Building Services providing an update with the position in Deans South, Livingston following previous decisions of the Council Executive in June 2014.

In June 2014 Council Executive noted the position at the time with regards to the remaining privately owned houses at Deans South and agreed to extend availability of the Open Market Share Equity Scheme (OMSE) to 31 December 2014. Council Executive also agreed to proceed with some new build council housing on part of the site. This would now form part of Lot 4 of the new build programme for 42 units and had received formal planning approval.

Since November 2013 the council had acquired a further 33 properties on the estate. A total of 19 homeowners had moved using the OMSE scheme and 14 properties had been cash sales. This left 14 privately owned houses on the estate. In October 2014 all remaining home owners were contacted and invited to attend to meet with council officials to explore options on possible ways forward. Five home owners met with officials and their comments were contained in Appendix 1 attached to the report. Only two expressed an interest in being involved in future planning of the estate.

Whilst significant progress had been made through the use of the OMSE scheme, at this stage no new interest had been shown by Deans South residents. However subject to Scottish Government agreement, it was proposed that the scheme should continue to be made available to eligible homeowners while the future of the estate remained uncertain. Preferential terms should therefore continue up to 31 August 2015.

The report continued to provide information on the continuing development of the estate and included structural information on the remaining houses. Arup Scotland also remained of the opinion that it would not be advisable for the council to seek to partially demolish empty blocks where homeowners also remained.

The report concluded that overall the situation in Deans South remained unresolved as it had not been possible to reach agreement with a number of homeowners on the future of the estate. In the meantime there was an opportunity to start a first phase of redevelopment on the western part of the estate using the new build council housing to build 42 properties for rent.

It was recommended that the Council Executive :-

1. Note the position in relation to the offer made to Deans South homeowners in November 2013 and the uptake of that offer;
2. Note the outcome of the most recent consultation exercise undertaken with Deans South owners;
3. Note that 14 properties on the Deans South estate remained in private ownership;
4. Agree that the availability of the Open Market Shared Equity Scheme (OMSE) on preferential terms should continue to be available to eligible Deans South homeowners to 31 August 2015, subject to agreement with the Scottish Government; and

5. Agree that a further report be submitted in due course on long term options for the Deans South estate.

### Decision

To approve the terms of the report

## 8. SCHOOL ESTATE - FREE SCHOOL MEALS ACCOMMODATION UPDATE

The Council Executive considered a joint report (copies of which had been circulated) by the Head of Finance Estates and the Head of Schools with Education Support to consider proposals to undertake hall extensions at Peel, Carmondean and Broxburn Primary Schools that would facilitate the delivery of free school meals and two hours effective physical education.

The report explained that the Scottish Government announced on 7 January 2014 that all Scottish Primary 1 to Primary 3 pupils would be entitled to receive a free school meal from January 2015. Therefore a number of feasibility studies were undertaken on Peel, Carmondean and Broxburn Primary Schools to consider the suitability of the existing accommodation to deliver the increased demand for free school meals, provision of physical education and the potential for improved community utilisation. Officers had subsequently submitted proposals for funding to the Scottish Government who had now confirmed that the council had been awarded £4.35m to implement the extensions and increase capacity in existing school kitchens.

The report then provided a summary of the proposals for each of the schools. Information was also contained in the report with regards to the school kitchen upgrade programme.

It was recommended that the Council Executive :-

1. Note the award of £4.35m to support the delivery of the additional free school meal requirements for P1 to P3 pupils;
2. Approve the extension of Peel Primary School, Livingston by constructing a new hall with an estimated cost of approximately £1m;
3. Approve the extension of Carmondean Primary School, Livingston by constructing a new hall with an estimated cost of approximately £1m;
4. Approve the extension of Broxburn Primary School hall with an estimated cost of approximately £0.8m; and
5. Note that the council had already commenced implementation of a programme of school kitchen upgrades at six schools to facilitate the delivery of the additional free school meal provision at a cost of

£1.55m.

### Decision

To approve the terms of the report

## 9. CHANCELLOR'S AUTUMN STATEMENT 2014

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates providing a narrative on the announcement contained in the Chancellor of the Exchequer's Autumn Statement 2014 and to provide an indication of the measures that could have financial implications for the council.

The Head of Finance and Estates explained that the Autumn Statement 2014 intended to build on the UK Government's long-term economic plan for economic stability and ensure a stable recovery of the economy. The announcement also provided details on the UK Government's progress in reducing the deficit and how the Government would strive to improve the UK's productivity with further measures to drive efficiency and reform in the public sector, support for business and enterprise and investment in infrastructure.

The report provided a summary of the overall economic position including OBR projections, general economic outlook, unemployment, revenue expenditure, capital expenditure. Other issues were also contained within the announcement including fuel duty, devolution, stamp duty land tax and savings.

The Scottish budget would receive an additional £227m as a result of the workings of the Barnett Formula. However £127m of this was as a result of the extra funds for the NHS in England and the Scottish Government had already promised to pass this sum on, in full, to the NHS in Scotland. The Scottish Government would also be required to determine the distribution of the departmental spending figures for 2015-16 and 2016-15 and this would be reported to a future meeting of the Council Executive.

The report concluded that the economic projects in the Autumn Statement 2014 continued to provide a very challenging financial outlook with public finances remaining constrained and a continuing risk that the weak growth in the Eurozone could lead to further pressure on the UK economy.

It was recommended that the Council Executive :-

1. Note the latest economic position outlined in the 2014 Autumn Statement; and
2. Agree that the Head of Finance and Estates should continue to monitor the measures which impacted on the council.

### Motion

"Council Executive agrees to recommendations 1 and 2 and agrees to

add an additional recommendation as follows :-

3. Agrees that West Lothian is suffering as a consequence of the mishandling of the economy by two governments and condemns the impact of service cuts caused by underfunding of welfare and public services by the Tory led UK Westminster Government and the SNP Scottish Government”.

- Moved by Councillor McGinty and seconded by Councillor Muldoon

#### Amendment

“Council Executive agrees to recommendations 1 and 2 and agrees to add an additional recommendation as follows :-

3. Agrees that West Lothian is suffering as a consequence of the mishandling of the economy by the Westminster government and condemns the impact of service cuts caused by underfunding of welfare and public services by the Tory led UK Westminster Government”.

- 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.

### 10. THE REPORT OF THE SMITH COMMISSION

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates advising of the main terms of the agreement as outlined in the Smith Commission Report published on 27 November 2014.

Following nine plenary sessions of cross-party talks, involving all five political parties represented in the Scottish Parliament, an agreement was reached on 26 November 2014 with regards to a package of new powers with the Smith Commission report then being published on 27 November 2014

The Smith Commission Heads of Agreement comprised of three “pillars”. The three pillars aimed to :-

- Provide a durable but responsive constitutional settlement for the governance of Scotland;
- Delivery prosperity, a healthy economy, jobs and social justice; and
- Strengthen the financial responsibility of the Scottish Parliament.

The report then provided a narrative on each of the three Pillars which covered a wide range of subject matters including air passenger duty,



Value Added Tax, employability, taxation and the crown estate to name but a few.

Following publication of the Smith Commission Report on 27 November 2014 the UK Government had undertaken to produce draft legislative clauses devolving the powers outlined in the report by 25 January 2015. Once the powers were devolved the Scottish Government would then have to legislate for the various different schemes and measures to be implemented. The timetable for this was as yet uncertain.

The Head of Finance and Estates concluded that the implementation of the Smith Commission Agreement and its impact upon civic Scotland would be a significant issue in the coming months and years ahead. Therefore council officers would seek to assist all relevant consultations in order to achieve the best possible outcome for all local communities.

It was recommended that the Council Executive :-

1. Note the contents of the report; and
2. Agree that the Head of Finance and Estates and other officers should present further report as required on the implementation of the Smith Commission Agreement.

#### Motion

“Council Executive agrees to recommendations 1 and 2 and agreed to add an additional recommendation as follows :-

3. agrees that the result of the referendum was that the people of Scotland decisively voted to remain part of the UK, furthermore, that it is also clearly the case that many people on both side of the debate wish to see greater power for the Scottish Parliament particularly in areas such as taxation and social security; welcomes the recommendations of the smith commission which is a product of all five parties representing the Scottish Parliament and looks forward to the UK Government taking the proposal to implementation with the Scottish government providing full support and cooperation”.

- Moved by Councillor Fitzpatrick and seconded by Councillor Muldoon

#### Amendment

“Council Executive notes that the Smith Commission completely fails to deliver the radical change, close to federalism, the Home Rule as campaigned for by Keir Hardie and promised by Gordon Brown. Council Executive also notes that under the proposals Westminster will still control 70% of Scottish Taxes and 80% of resources to provide welfare. Council Executive accepts that we need the full power to control our own resources to build a better, fairer and more equal Scotland”

- 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.

11. BLACKBURN PARTNERSHIP CENTRE - HUBCO STAGE 2 SUBMISSION AND PRE-CONSTRUCTION APPROVALS

The Council Executive considered a joint report (copies of which had been circulated) by the Head of Finance and Estates and the Head of Area Services seeking approval for the Hubco Stage 2 submission for Blackburn Partnership Centre and the main terms of the ground lease, occupancy lease and development agreement between the council and NHS Lothian to deliver the development.

The report advised that the council, West Lothian CHCP and NHS Lothian (the Partners) were working in partnership with Hub South East Scotland Ltd (Hubco) to develop and deliver Blackburn Partnership Centre. The development was part of a wider “bundle” of projects which NHS Lothian would procure under a single contract in order to achieve better value for money.

The Partners approved Hubco’s stage 1 proposals for Blackburn Partnership in Spring 2014 and since that time further development work had been undertaken by the Partners, Hubco and GRAHAM Construction to progress the project through the second and final development stage.

Hubco had now formally presented its Stage 2 submission to the Partners. The Stage 2 submission represented a further refinement and development of the Stage 1 submission. The aim of Stage 2 was to further demonstrate deliverability and value for money within the agreed brief, programme and affordability cap.

The report then provided a summary of the proposals in the Stage 2 submission which were relevant to the council’s interest in Blackburn Partnership Centre and included information on building design and technical proposals, pricing, land matters, key project milestones and hard facilities management.

The report continued to provide information on the delivery model that was proposed for the new project and included information on the development agreement, ground lease agreement and occupancy agreement.

Council Executive were also advised that given that the community facilities to be accommodated in the new partnership centre were intended to replace Blackburn Community Education Centre it was appropriate at this stage to seek formal approval for the existing community centre building to be declared surplus to requirements from the point that the new building became fully operational.

The report concluded that if Council Executive approved the matters

contained within the report it would allow the project to progress towards construction in Spring 2015 and given the significant capital investment from the council it would be necessary to continue to report through the council's governance and decision-making structures at key stages of the project.

It was recommended that the Council Executive :-

1. Notes the summary of the main components of Hubco's Stage 2 submission outlined in section D2 and the commentary related to each, in particular :-
  - a) The estimated maximum cost to the council for design and construction of its share of the facility was £3.968m and that Hubco had assessed the proposal as representing value for money.
  - b) A Sub-Hubco would provide hard facilities management and lifecycle maintenance services for the whole of the building, including the council's accommodation.
2. Approves the proposals in Hubco's Stage 2 submission which were relevant to the council;
3. Notes that the council and NHS Lothian must enter into a separate ground lease, occupancy lease and development agreement
4. Approves the main terms of the proposed ground lease, occupancy lease and development agreement and delegates powers to the Head of Finance and Estates to agree to any changes required and to include these agreements on the basis that any revised terms and conditions continued to represent best value for the council; and
5. Approves the declaration of Blackburn Community Education Centre and Blackburn Connected as no longer required for service delivery and surplus to requirements from when the new partnership centre building became fully operational.

#### Decision

To approve the terms of the report

#### 12. CONSULTATION ON PROPOSALS TO INTRODUCE A STATUTORY DUTY OF CANDOUR FOR HEALTH AND SOCIAL CARE SERVICES

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing a draft response to the consultation on the proposals to introduce a statutory duty of candour for health and social care services.

The Head of Social Policy advised that the Scottish Government was proposing to introduce legislation that would require organisations

providing health and child and adult social care services to tell people if there had been an event involving them where the organisation had recognised that there had been physical or psychological harm caused as result of their care and treatment.

The draft response, a copy of which was attached to the report, provided the view that health and both child and adult services should work within a duty of candour but that the response for each adverse event should be responded to proportionately by services rather than in the proposed prescriptive way suggested.

Additionally the general tenor of the response was that implementing a duty of candour across all health and both child and adult services should be consistent and helpful. However there would be both administrative resource burdens with associated financial implications for organisations.

It was recommended that the Council Executive approve the draft response to the consultation on the proposals to introduce a statutory duty of candour for health and social care services and include the following in the draft response :-

“The idea of complete openness and transparency was viewed as a laudable principle but it was suggested that this had the potential to lead all local authorities not just West Lothian Council into a position of increased numbers of claims being received. There was an argument that although an increase could be expected, this would potentially be offset by a reduction in legal costs with matters being settled more quickly. It will be difficult at this stage for insurers to determine the impact should this be forced upon them but if loss experiences deteriorated I would expect they will respond with policy changes in the coming years.

With regards to the impact on the council, the concept of issuing an apology and full explanation following an event is fine in itself but it is expected that any correspondence being issued would have to be thoroughly reviewed as there is a fine line between showing *empathy & transparency* and *admission of liability*. It will be important for the council from a legal and an insurance perspective not to cross that line. There will be cost and resource implications in reviewing correspondence from a legal and insurance perspective”.

### Decision

1. To approve the terms of the report; and
2. Agreed to the inclusion of the additional statement following guidance from the council's legal services.

## 13. CONSULTATION ON PROPOSALS FOR AN OFFENCE OF WILFUL NEGLIGENCE OR ILL-TREATMENT IN HEALTH AND SOCIAL CARE SETTINGS

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

circulated) by the Head of Social Policy providing a draft response to the consultation on the proposals for an offence of wilful neglect or ill-treatment in Health and Social care settings.

The Head of Social Policy advised that views were being sought on five areas. These being :-

- The type of care settings which the offence should cover;
- Whether the offence should be based on conduct or outcomes;
- How the offence should apply to organisations as well as individuals;
- Penalties;
- Equality issues.

The draft response, a copy of which was attached to the report, provided the view that the proposal should cover all formal health and social care settings, both in the private and public sectors. It was also agreed that the proposal should not include informal arrangements, particularly as there was already existing legislation covering harm in such settings.

Additional the general tenor of the response was that the proposal should be consistent with what was already in place for mental health patients and adults with incapacity, particularly in relation to penalties for offences.

It was recommended that the Council Executive approve the draft response to the consultation on the proposals to for an offence of wilful neglect or ill-treatment in Health and Care Social settings and include the following in the draft response :-.

“In terms of agreeing whether the offence should concentrate on the act of neglect rather than the harm suffered, the effect of the harm might be seen as an aggravation of the offence. Regarding the question about offences applying to organisations, it is not clear whether it is envisaged that an offence could attach to the organisation arising from issues of vicarious liability for employee actions, or liability attaching in circumstances where there is a principal/agent arrangement. That might apply where an organisation engages an agent or contractor to perform specific obligations on their behalf”.

#### Decision

1. To approve the terms of the report; and
2. Agreed to the inclusion of the additional statement following guidance from the council’s legal services.

The Council Executive considered a report (copies of which had been circulated) providing a response to a consultation on electronic cigarettes and strengthening tobacco control in Scotland.

The Head of Health Services advised that the consultation was seeking views on three main areas. These being :-

- Electronic cigarettes;
- Tobacco control; and
- Tobacco control and e-cigarettes

The draft response, a copy of which was attached to the report, provided the view that the proposal was supported to designate e-cigarettes as an age-related product for purchase by adults aged 18 and over, restrict the advertising and promotion of e-cigarettes, introduce smoke free NHS grounds, smoke free and family areas and create a mandatory age verification policy for tobacco products and e-cigarettes.

The Council Executive was asked to approve the draft response to the consultation on the use of e-cigarettes and implementation of tighter tobacco controls in Scotland.

#### Decision

To approve the terms of the report

15. SCOTTISH GOVERNMENT'S CONSULTATION ON PUBLIC ENGAGEMENT FOR WIND TURBINE PROPOSALS : GOOD PRACTICE GUIDE

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning and Economic Development seeking approval for the submission of a response in relation to a consultation on public engagement for wind turbine proposals.

The Head of Planning and Economic Development explained that a public petition, based on concerns for the current publicity requirements for raising awareness of planning applications for wind turbines amongst the wider community were insufficient, was submitted to the Scottish Parliament in March 2013. The petitioners were particularly concerned about proposals for single wind turbines mainly in more sparsely populated rural areas.

The Scottish Government took the view that improving practice on planning consultations and neighbour notifications on applications for wind turbine proposals would be more appropriate.

The report then provided a summary of the contents of the consultation with a copy of the proposed response attached to the report at Appendix 1. It was noted that much of the proposed guidance was welcomed by the

council as it supported and extended much of the practice the council currently carried out for small wind energy applications. However it was being suggested that neighbourhood notification be further improved by notifying at least the five nearest properties in West Lothian to an application and/or use of a press release in the local newspaper.

The report concluded that the proposed guidance on public engagement for single turbines and small wind energy development was helpful and recognised the need for greater consultation on such applications.

It was recommended that the Council Executive :-

1. Note the content of the recent Scottish Government guidance; and
2. Agree the proposed response to the consultation as set out in Appendix 1.

### Decision

To approve the terms of the report

## 16. PROPOSALS FOR A REVIEW OF THE COUNCIL'S PLANNING FUNCTION

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive seeking approval to commence a review of the council's planning service and to agree the scope for the review.

The Head of Planning and Economic Development recalled that at a meeting of West Lothian Council on 2 September 2014 the Executive Councillor for Development and Transportation confirmed that a proposal for a review of the council's planning service would be undertaken.

In accordance with that commitment the Head of Planning and Economic Development explained that for the purpose of the review the council's planning service was being taken as the development management team, including the enforcement service and the development planning team. It was also proposed to review the operation of the Development Management Committee, West Lothian Council (Planning) and the Local Review Body.

The planning function of the council comprised three main elements and it was proposed that these elements form the basis of the review. These were as follows :-

- The staff and processes employed to discharge the statutory and non-statutory functions of the council and its role as planning authority
- The committees which made planning decisions
- The interaction between the two via the Scheme of Delegation.

The matters to be reviewed under each of these headings were set out in Appendix 1 attached to the report.

The report was recommending that the Chief Executive be designated to commission a reviewer to undertake the task. Quotes for the work would be obtained from senior figures that had experience of undertaking reviews of operational parts of a local authority. It was expected that the appointed person or person would have significant experience of working for a local authority at Head of Service level or above and would have a comprehensive knowledge of the operation of a council as a planning authority as defined in the relevant acts.

The appointed person would be expected to back up their review findings with benchmarking details from comparative planning authorities and the appointment of the person to carry out the review would be undertaken in accordance with the council's standing orders.

It was recommended that Council Executive :-

1. Agree that an independent review of the council's planning services should be commenced in early 2015;
2. Agree to scope of the review as set out in the appendix to the report;
3. Delegates to the Chief Executive to appoint an appropriate person to carry out the review; and
4. Agree that the findings of the review, together with an action plan to address any findings should be reported back to Council Executive for further consideration as soon as possible following the conclusion of the review.

### Decision

To approve the terms of the report

## 17. SCOTLAND'S DIGITAL FUTURE - SUPERFAST BROADBAND INVESTMENT

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning and Economic Development providing details of progress to secure improved superfast broadband for West Lothian as part of the council's capital programme via the Scottish Government's Step Change broadband initiative.

The report recalled that in Autumn 2012 the Scottish Government set out funding to ensure all local authorities in Scotland achieved at least 75% availability of superfast broadband. West Lothian Council agreed a £2.5m contribution for Additional Local Subsidy (ALS) as part of the general services capital programme 2013-14 to 2017-18.



With an anticipated 99.3% superfast broadband availability it was expected that West Lothian would have the highest level of superfast broadband coverage in Scotland and one of the highest in the UK. The details provided were still provisional and subject to detailed on the ground surveys by BT Openreach and could change between now and the contract completion date in 2017.

The Head of Planning and Economic continued to advise that timescales for delivery had changed significantly since the last mapping was published and it was now likely that work would start six months sooner than planned, to deliver superfast broadband in West Lothian from mid-2015. The roll out of the programme was then summarised in the report.

It was recommended that Council Executive :-

1. Notes the new schedule for the delivery of superfast broadband to 99% of premises in West Lothian as well as basic broadband for all premises in West Lothian; and
2. Notes that the information was now in the public domain via the Digital Scotland web site.

#### Decision

To note the terms of the report

#### 18. PUBLIC BODY REPORTING ON THE SCOTTISH BIODIVERSITY DUTY 2011-2014

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning and Economic Development seeking approval of a response for public body reporting on the Scottish Biodiversity Duty for the period 2011-2014.

The Head of Planning and Economic Development advised that under the Nature Conservation (Scotland) Act 2004 all public bodies in Scotland were required to further the conservation of biodiversity when carrying out their duties. The Wildlife and Natural Environment (Scotland) Act 2011 required public bodies in Scotland to provide a publicly available report every three years on action which they had undertaken to meet this biodiversity duty. The first report was due to be published by 1 January 2015 covering the period 2011-2014.

The West Lothian Biodiversity Report, a copy of which was attached to the report at Appendix 1, set out the actions by the council and covered the key areas of Governance, Action, Mainstreaming, Partnership and Communication. The report then provided a narrative on each of these headings.

It was recommended that the Council Executive :-

1. Note the contents of the general view of West Lothian's

commitment to biodiversity as detailed in Appendix 1 attached to the report;

2. Agree to forward the report and appendix, which set out the actions the council had taken, as a public body, to meet its reporting duty on biodiversity over the three year period 2011-2014 to the Scottish Government; and
3. Agree to publicise the report on the council's web site as suggested by the Scottish Government.

### Decision

To approve the terms of the report

## 19. 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 local government finance settlement for 2015-16, as published in Finance Circular No.9/2014 dated 11 December 2014.

The figures published in the circular provided an update to the provisional grant figures contained in finance circular 6/201 which was reported to Council Executive on 5 August 2014. The allocation formed the basis of the annual consultation between the Scottish Government and COSLA, ahead of the Local Government Finance (Scotland) Order 2015 being presented to the Scottish Parliament in February 2015.

Total funding for local government in 2015-16 had been confirmed as £10.85 billion which equated to a 36.4% share of the total Scottish Block resources. This compared to a 36.7% share for local government in 2014-15.

Individual local authority funding allocations had been updated to take account of funding for implementation of free school meals for primary one to three pupils, additional provisions in the Children and Young People Bill for extended support for throughcare and aftercare services, transitional funding for Self Directed Support and for the changes to the way former Council Tax benefits were administered as part of the Council Tax Reduction Scheme.

The distributed revenue grant for West Lothian Council in 2015-16 would be £308.635 million, subject to the council agreeing to deliver a package of measures as set out in a letter from the Cabinet Secretary to Council Leaders on 9 October 2014. The letter confirmed that councils would be required to freeze council tax and secure places for all probationers who required one under the teacher induction scheme in order to secure the full amount of their revenue grant allocation. The circular also confirmed that if the council did not agree to the full package of measures then it would have its allocation reduced by its need based share of £70 million. For West Lothian this would represent a reduction in grant of £2.084 million.

The breakdown of the revenue funding for West Lothian was provided in a table in the report. It was also noted that there were a number of funding streams still to be distributed. In line with previous settlement distribution of Teachers Induction Scheme of £27.6 million and distribution of Criminal Justice Social Work Funding of £86.45 million would be finalised in 2015.

The report continued to provide an update in relation to Non Domestic Rates and Grant Capital Funding for 2015-16

The Head of Finance and Estates concluded that as reported to the Council Executive on 19 June 2014 budget reductions of £30.4 million would be required in order to secure a balanced budget over the period 2015-16 to 2017-18 as funding provided by the Scottish Government would not meet the council's increased budget pressures. It had also been previously agreed that officer would develop draft budget measure for the three years 2015-16 to 2017-2018 based on the detailed responses from the initial Delivering Better Outcomes (DBO) consultation in 2012 and these were set out in a second DBO consultation which had ran from 9 October and 21 November 2014 and which was being reported to a series of Policy Development and Scrutiny Panels in week commencing 15 December 2014.

It was recommended that the Council Executive :-

1. Note the outcome of the local government finance settlement in respect of revenue and capital funding for 2015-16; and
2. Agree that the Head of Finance and Estates incorporate the figures contained within the finance settlement into budget proposals that would be reported to Council in early 2015.

### Decision

To approve the terms of the report

## 20. SCOTTISH PUBLIC SERVICES OMBUDSMAN - ANNUAL REPORT 2013-14

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive providing an update on the Scottish Public Services Ombudsman's annual report 2013-2014.

The report provided two appendices:-

- |            |   |
|------------|---|
| Appendix A | Letter to West Lothian Council from the Scottish Public Services Ombudsman enclosing complaints statistics.   |
| Appendix B | Tables of statistics to illustrate West Lothian Council complaints received by subject area and complaints determined by outcome for 2012-13 and 2013-14. |

The Council Executive was informed that the total number of complaints

received by the SPSO about West Lothian Council was 70, which was the same figure as 2012-13. The greatest number of complaints was regarding Education which differed from the sector as a whole where more complaints were regarding Housing than any other subject.

48 of the complaints about West Lothian Council had been dealt with at the advice stage as they were not suitable for the SPSO, whilst a further 17 were considered to have an early resolution. The percentage of premature complaints had decreased to 43% from 57% the previous year. Out of the total number of complaints received by the SPSO relating to West Lothian Council, two complaints had been partly upheld. No complaints had been fully upheld.

The Chief Executive concluded that the complaints about West Lothian Council had decreased in 2012-13 and that the number of upheld complaints remained low as the majority of complaints were made prematurely, not duly made or withdrawn, or were considered to be out of their jurisdiction.

The Council Executive was asked to:-

1. Note the SPSO annual report 2013-2014, and recommend that it be submitted to the Council Executive for information, and
2. Note West Lothian Council's performance in relation to the number of complaints received by the SPSO and the outcome.

### Decision

To note the terms of the report.