

MINUTE of MEETING of the COUNCIL EXECUTIVE held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 23 MAY 2023.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Tony Boyle (substituting for Councillor Tom Conn), Janet Campbell, Robert De Bold, Angela Doran-Timson, Damian Doran-Timson, Danny Logue, Anne McMillan, Pauline Orr (substituting for Councillor Carl John), Sally Pattle, George Paul and Tony Pearson (substituting for Councillor Andrew McGuire)

Apologies – Councillors Tom Conn, Carl John and Andrew McGuire

## 1 DECLARATIONS OF INTEREST

Councillor Anne McMillan stated that she was a council appointee to Firefly Arts; as she had no financial interest nor was she on the Firefly Arts Board, she would remain in the meeting.

Councillor Pauline Orr stated that she was an employee of Scottish Government; however, there was no conflict of interest that would preclude her from participating in the meeting.

### Agenda Item 14 – Bed Based Community Health and Social Care in West Lothian - IJB Consultation

Councillor Janet Campbell stated that she was an employee of NHS Lothian and an elected member in Broxburn.

Councillor Damian Doran-Timson declared an interest during consideration of this item as a member of West Lothian IJB as an amendment circulated involved a matter of policy.

Councillor Danny Logue stated that he was an employee of NHS Lothian.

### Agenda Item 19 – West Lothian Leisure Request for Council Consent Updates

Councillor Robert De Bold stated that his son was a member of Xcite.

Councillor Angela Doran-Timson stated that she was a member of Xcite.

Councillor Danny Logue declared an interest as a member of the West Lothian Leisure Board of Directors. He would therefore not participate in this item of business.

Councillor Kirsteen Sullivan stated that her children were members of Xcite.

## 2 ORDER OF BUSINESS

### Motion

To consider agenda item 19 (*West Lothian Leisure Request for Council Consent Updates*) and any relevant votes in public due to the strategic importance of the future of Xcite.

- Moved by Councillor Janet Campbell and seconded by Councillor Robert De Bold.

#### Amendment

To resolve under Section 50(A)(4) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of agenda item 19 (*West Lothian Leisure Request for Council Consent Updates*) in private as it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A of the Act.

The Governance Manager confirmed that the grounds for considering this item in private related to the potential of commercial and financial information of a third party being disclosed in terms of paragraph 6 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973, which would be valuable to competitors and therefore harmful to West Lothian Leisure's future trading.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

An electronic vote was conducted. The result was as follows:

<u>Motion</u>	<u>Amendment</u>	<u>Abstain</u>
Janet Campbell Robert De Bold Pauline Orr	Tony Boyle Angela Doran-Timson Damian Doran-Timson Lawrence Fitzpatrick Danny Logue Anne McMillan George Paul Tony Pearson Kirsteen Sullivan	Sally Pattle

#### Decision

Following a vote, the amendment was successful by 7 votes to 5, with 1 abstention, and was agreed accordingly.

Council Executive agreed, in accordance with Standing Order 13(1), to hear a deputation received from Ms Joyce Cameron in relation to agenda item 19 (*West Lothian Leisure Request for Council Consent Updates*).

The Chair ruled, in accordance with Standing Order 11, that the deputation would be heard before agenda item 19 (*West Lothian Leisure Request for Council Consent Updates*) and prior to the Council Executive

going into private session.

Council Executive agreed, in accordance with Standing Order 8(3), to ask questions on agenda items 15 (*Publication of Elected Members Remuneration, Expenses and Allowance Information 2022/23*) and 16 (*Winchburgh Local Bus Services – Tender Outcome*), which were on the agenda for information only.

Council Executive agreed, in accordance with Standing Order 8(3), that agenda item 17 (*Social Policy Contract Activity Update*) was to be taken as read and its recommendation noted without further consideration.

### 3 MINUTES

- a The Council Executive confirmed the minute of its meeting held on 9 May 2023 as a correct record. The minute was thereafter signed by the Chair; and
- b The Council Executive noted correspondence arising from previous decisions.

### 4 LINLITHGOW MARCHES - RIDING OF THE MARCHES

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive inviting members to consider attendance at this year's Riding of the Marches in Linlithgow on 13 June 2023.

It was recommended that the Council Executive:

1. Consider the invitation from the Clerk to the Court of the Deacons of the Ancient and Royal Burgh of Linlithgow for the council to attend the Riding of the Marches;
2. If the invitation was accepted, agree which four members should attend; and
3. Agree to provide a donation of £400 to cover these invitations.

#### Decision

1. To approve the terms of the report.
2. To agree that four members would attend the event as follows: 1 Labour, 1 Conservative, 1 SNP and 1 Liberal Democrat.

### 5 SCOTTISH FIRE AND RESCUE SERVICE - DESIGNATION OF LOCAL SENIOR OFFICER

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

circulated) by the Chief Executive appraising members of the proposed appointment of a new Scottish Fire and Rescue Service Local Senior Officer (LSO) for the Falkirk and West Lothian area following notification that the previous LSO, Kenny Barbour had moved to a new post on 1 May 2023.

It was recommended that the Council Executive agree to support the appointment of Area Commander William Pollard as the LSO for the Falkirk and West Lothian area.

#### Decision

To approve the terms of the report.

### 6 REGULATION OF INVESTIGATORY POWERS - POLICY REVIEW

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive inviting members consider the draft revised Policy, Procedure and Guidance in relation to the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA).

It was recommended that the Council Executive:

1. Approve the revised Policy in relation to the Regulation of Investigatory Powers (Scotland) Act 2000, contained in the appendix to the report; and
2. Note the terms of the draft revised Procedure and Guidance, also in the appendix to the report, which would support compliance with legislation and with the revised policy.

#### Decision

To approve the terms of the report.

### 7 LEARNING ESTATE - DEVELOPER FUNDED SCHOOLS

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive (Education, Planning and Economic Development) and the Head of Finance and Property Services providing an update on various developer funded school projects in the council's learning estate that were in the process of being delivered and seeking approval for the formal submission of a New Project Request to Hub South East for the extension of Calderwood Primary School on the basis outlined in the report.

It was recommended that the Council Executive:

1. Approve progressing the extension and temporary units at Calderwood Primary School, located in East Calder, Livingston;

2. Note that at Calderwood Primary School the current projected total cost was £8 million;
3. Approve the formal submission of a New Project Request to Hub South East for the delivery of the extension at Calderwood Primary School;
4. Note the proposed delivery timescales including completion by August 2024 for the extension to Calderwood Primary School;
5. Approve the procurement route for delivery of the developer-funded projects set out in Section D.2 of the report and note the approved budgets and delivery timescales; and
6. Note that, at key project milestones, including prior to financial close and construction commencement, further update reports would be presented to Council Executive for consideration.

### Decision

To approve the terms of the report.

## 8 ST KENTIGERN'S ACADEMY, BLACKBURN - REINFORCED AUTOCLAVED AERATED CONCRETE PANELS. PROPOSED OPTIONS TO PROVIDE A LONG-TERM SOLUTION

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive (Education, Planning and Economic Development) and the Head of Finance and Property Services providing an update on the issues pertaining to the Reinforced Autoclaved Aerated Concrete (RAAC) Panels at St Kentigern's Academy, including the ongoing challenges presented in the operation of the school, setting out the outcome of a feasibility study and seeking approval for the next steps in order to find a suitable solution for the long-term future of the school.

It was recommended that the Council Executive:

1. Note the current situation and the ongoing challenges in maintaining an operational school;
2. Note the outcome of the detailed feasibility study undertaken via Hub South East Strategic Support Services;
3. Agree that Option 1 in the report is the preferred option which should be progressed via further work;
4. Approve further work up to the value of £500,000 for the next stage of design of the replacement building and associated surveys through Hub South East for the preferred option as outlined in Section D.3 of the report;

5. Approve the extension of the current contractual arrangements for the temporary units beyond 31 July 2023 for a further 12 month period at a value up to £300,000;
6. Approve the allocation of service concessions resources from 2023/24 to 2026/27, totalling £10 million, to the capital budget for St Kentigern's Academy;
7. Agree that officers should approach the Scottish Government to discuss the potential for additional Scottish Government grant funding to assist with the remaining estimated costs of the project, and
8. Agree that a report be presented to Council Executive for consideration in Autumn 2023 seeking approval for a project to deliver a replacement building at the school.

#### Decision

To approve the terms of the report, provided that a design option that would include a swimming pool be presented to a future Council Executive meeting.

#### 9 PHARMACY UNIT AT STRATHBROCK PARTNERSHIP CENTRE, 189A WEST MAIN STREET, BROXBURN. PROPOSED LEASE VARIATION

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for a ten-year lease extension for the premises occupied by Lloyds Pharmacy Limited at Strathbrock Partnership Centre, 189A West Main Street, Broxburn.

It was recommended that the Council Executive:

1. Approve the extension of the existing lease agreement for the Pharmacy Unit at Strathbrock Partnership Centre for a period of ten years, and;
2. Delegate authority to the Head of Finance and Property Services to execute any further terms and conditions or changes to those outlined in the report on the basis that those continued to represent the achievement of Best Value for the council.

#### Decision

To approve the terms of the report.

#### 10 YOUNG PERSONS SUPPORTED HOUSING UNIT AND THE ALMONDVALE CRESCENT AFFORDABLE HOUSING PROJECT UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services and the Head of Finance and Property Services providing an update on the delivery of the Young Person's Supported Housing Unit (YPSH) and the Affordable Housing Project, both located at Almondvale Crescent, Livingston and seeking approval to progress through Strategic Support Services via the Hub South East procurement route, as outlined in the report.

It was recommended that the Council Executive:

1. Notes that the YPSH and the Affordable Housing would be delivered as a combined project under a single contract;
2. Approve the procurement route for delivery through Hub South East;
3. Note the affordability cap of the project as £9.185 million and the next steps in the delivery of the project; and
4. Note that an update would be provided to Council Executive in Autumn 2023 on the detailed options.

#### Decision

To approve the terms of the report.

#### 11 BUS PARTNERSHIP FUND - STRATEGIC CASE APPRAISAL SUBMISSION

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services informing members of the completion of the Strategic Business Case (SBC) appraisal as part of the West Lothian Bus Alliance Bus Partnership Fund Project and inviting members to agree to the submission of the SBC to Transport Scotland.

It was recommended that the Council Executive:

1. Note the completion of the Strategic Business Case Appraisal for the West Lothian Bus Alliance Bus Partnership Fund Project;
2. Agree to the submission of the Strategic Business Case Appraisal to Transport Scotland for consideration of future funding, as contained in Appendix 1 of the report; and
3. Note the completion of the Strategic Business Case Appraisal for the Edinburgh South East Scotland Bus Partnership Fund Project.

#### Decision

To approve the terms of the report.

12 CONTRIBUTIONS POLICY FOR ADULT NON-RESIDENTIAL SOCIAL CARE

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy seeking approval of the changes made to the Contributions Policy for adult non-residential social care, which required to be reviewed on an annual basis.

It was recommended that the Council Executive:

1. Note the content of the report; and
2. Approve the recommended changes to the policy detailed in section D2.1 of the report.

Decision

To approve the terms of the report.

13 BED BASED COMMUNITY HEALTH AND SOCIAL CARE IN WEST Lothian - IJB CONSULTATION

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing detail on the Integration Joint Board stakeholder engagement activity regarding bed-based community health and social care in West Lothian.

It was recommended that the Council Executive note the bed-based community health and social care stakeholder engagement launched by the West Lothian Integration Joint Board on 9 May 2023, and consider any action to be taken by the council in relation to the consultation and its subject matter.

Motion

Council Executive welcomes the open public engagement on the Integration Joint Board proposals on Bed Based Community Health & Social Care in West Lothian.

Council Executive recognises the extremely serious budget difficulties faced by West Lothian Integration joint Board and the public expressions of concern on its proposals for Care Home Services but also Care at Home.

Council Executive agrees that the exorbitant sums of consultancy fees for National Care Service proposals and the anticipated set up costs could be better spent fully meeting the current demands for care provision in our local communities and on improving a set of national standards to cover both public and private providers of care.

Council Executive further agrees that the IJB's budget shortfall is a result



of significant historic and ongoing underfunding by the Scottish Government.

Council Executive therefore calls on the Scottish Government to abandon its Bill for a National Care Service and provide a sufficiency of funds on an ongoing basis for West Lothian Integration Joint Board. It also notes that matters have been exacerbated greatly by Scottish Government clawback of Covid 19 monies estimated at £10.612m which were desperately needed for this essential public service to the West Lothian community, and calls for these funds to be returned to WLIJB.

Council Executive agrees with the four regional and local MSPs, including Cabinet Secretary for Justice and Home Affairs Angela Constance MSP, for the return of IJB Covid monies clawed back by Scottish Government to West Lothian IJB, as set out in their letter dated 18th May 2023 (appendix attached).

Council Executive therefore agrees for the Chief Executive to write to the chair of the IJB, for the IJB to consider making a formal request to the Scottish Government for this funding to be returned to resolve the shortfall in funding for social care for our elderly.

Council Executive instructs the Chief Executive to write to the First Minister requesting an urgent meeting with Council Leader, Chair of IJB and appropriate TU representatives to discuss concerns and in terms of a resetting of spending priorities.

Council Executive instructs the Chief Executive to formally respond to WLIJB consultation on the foregoing terms.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

#### Amendment

The SNP Group thanks the Head of Social Policy for drafting this report. Care Homes can provide step down care to free up beds in our hospitals, increasing capacity there. This report is short sighted and makes no reference to or understanding of the need to retain capacity for elderly care whilst maintaining statutory responsibilities.

It also needs to be noted that the title of the first IJB survey in February 2023 was "Home First and Community Provision in West Lothian – Public Engagement,"

This paper is being presented with no evidence about hospital-based provision. This abridged version attempts to join 2 already agreed separate issues of Hospital and Care as if all related to this latest 9th May Care Provision survey.

As Councillor for Linlithgow, I obviously have grave concerns around the potential disposal of St Michaels Hospital, however that does not detract from the impacts to be bourn by other wards.

This is deliberate and confusing and reads as if the IJB, Labour and Conservative councillors have already made the decision to close 2 of the remaining hospitals. The MSP for Linlithgow, Fiona Hyslop led a debate in Parliament to save St Michaels Hospital and was supported by other Lothian List MPs.

As such, the paper needs to be taken away and re-evaluated, and modified to prepare 2 separate papers for consideration with relevant evidence included

That evidence should include:

- Confirmation that population data is the most up to date and reflects the most recent Scottish People Census.
- That the exponential growth of Winchburgh and the Calderes in particular has been fully and comparatively considered in terms of future population and therefore future needs
- Confirmation that WLC IJB have applied for and are in receipt of maximum funding available from the NRAC formula.

All of these factors will increase burden on the NHS and Care Sectors and WLC need to be looking beyond the short term, looking at the bigger picture of service requirement in the fastest growing constituency in Scotland.

Whilst it may be more cost effective for WLC to outsource care services, I am advised that the IJB have access to financial reserves of their own. With that documented, rather than close these vital public services I put it to you that it is more prudent to release funding to save them avoid the detrimental impact on individuals and families who use these services.

I would remind WLC that Edinburgh City Councils decision to close care homes was allegedly not handled well and it is vital that WLC takes all appropriate measures to avoid that situation repeating itself. Please support the amendment.

NRAC – National Resource Allocation Formula

- Moved by Councillor Pauline Orr and seconded by Councillor Janet Campbell.

Councillor Damian Doran-Timson declared an interest as a member of the West Lothian Integration Joint Board and removed himself from this item of business as the amendment involved a matter of policy.

An electronic vote was conducted. The result was as follows:

Motion

Tony Boyle  
Angela Doran-Timson  
Lawrence Fitzpatrick  
Danny Logue

Amendment

Janet Campbell  
Robert De Bold  
Pauline Orr

Anne McMillan  
Sally Pattle  
George Paul  
Tony Pearson  
Kirsteen Sullivan

Decision

Following a vote, the motion was successful by 9 votes to 3, with 1 member absent, and it was agreed accordingly.

14 PUBLICATION OF ELECTED MEMBERS REMUNERATION, EXPENSES AND ALLOWANCE INFORMATION 2022/23

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services informing members of the levels of Elected Members Remuneration, Allowances and Expenses paid from 1 April 2022 to 31 March 2023 and providing details of training undertaken during this period.

It was recommended that the Council Executive note the terms of the report and display the attached schedules as per the report's Appendices on the Council's website.

Decision

To note the terms of the report.

15 WINCHBURGH LOCAL BUS SERVICES - TENDER OUTCOME

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services informing members of the outcome of the tender process for bus services in Winchburgh and inviting them to agree the next steps required.

It was recommended that the Council Executive:

1. Note the completion of the tender exercise;
2. Note that the tender process had concluded without contract award; and
3. Note that officers would conduct further market research on alternative options and report back to a future meeting of Council Executive.

Motion

To note the terms of the report.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

Councillor Robert De Bold moved an amendment that would have resulted in the formation of a cross-party group to understand the impact of reduced bus services across West Lothian and alternative options considered for the Winchburgh Local Bus Service Tender. After taking advice from the Governance Manager, the Chair ruled that the amendment was incompetent on the grounds that it sought to expand the issue beyond Winchburgh and therefore was not relevant to the report; that, in terms of Standing Order 28, decisions on the matter had previously been made at Council Executive on 25 April 2023; and that, in terms of Standing Order 20(2), work on the council's bus strategy was ongoing.

#### Decision

To unanimously approve the terms of the motion.

### 16 SOCIAL POLICY CONTRACT ACTIVITY UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing an update on contracting activity for the provision of care and support services for the period 1 October 2022 to 31 March 2023 in accordance with West Lothian Council's Standing Orders and Health, Care and Support Services Procurement Procedures.

It was recommended that the Council Executive note the contacting activity for the provision of care and support services for the period 1 October 2022 to 31 March 2023.

#### Decision

To note the terms of the report.

### 17 WEST LOTHIAN LEISURE REQUEST FOR COUNCIL CONSENT UPDATES

#### Deputation

The Council Executive heard from Ms Joyce Cameron, a member of the community, who spoke against the proposed closure of the Broxburn Swimming Pool. Ms Cameron listed the benefits of the pool to various local community groups and individuals and explained the potential difficulties in accessing alternative locations. Ms Cameron then responded to questions from the Council Executive.

#### PRIVATE SESSION

As had been previously agreed under Order of Business, the Council Executive resolved under Section 50(A)(4) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during

consideration of the following items of business as it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A of the Act.

#### Report by Depute Chief Executive

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing updates on the work being undertaken by officers since the decisions taken by the Council Executive at its meeting on 9 May 2023 in relation to the request by West Lothian Leisure (WLL) for council consent to implement the closure of four facilities. It also addressed a number of questions and concerns raised by the Council Executive at the same meeting.

It was recommended that the Council Executive:

1. Note the updates and further information on the work undertaken by officers since the decisions taken by the Council Executive at its meeting on 9 May 2023, as shown at section D.2 of the report;
2. Note that WLL considered there are no other feasible alternative options to continue to operate these facilities under the terms of the Services Agreement;
3. Note the update on work undertaken to invite expressions of interest in relation to the future operation of the four facilities;
4. Note the updates on members' questions and concerns raised at the Council Executive meeting on 9 May 2023, as shown at section D.3. of the report; and
5. Agree that a further update report be brought back to Council Executive on these matters and considers any further actions to be taken.

#### Motion

Agree the five recommendations.

In addition, Council Executive is asked to note that many events had been arranged, rehearsals conducted and ticket sales / bookings made for Howden Park Centre prior to West Lothian Leisure's announcement on 3 May 2023 of its intention to cease operations at the end of August 2023. Council Executive also notes that many events at Howden Park Centre cannot be suitably accommodated at any other venue in West Lothian.

Council Executive notes that Howden Park Centre is unique amongst the four venues in requiring a future programme of events to secure its viability, and agrees to provide one-off funding of £20,000 per month from the start of September for the remainder of financial year 2023-24 to support the operation of the centre. It is proposed that the one-off revenue funding of £140,000 is provided from the revenue budget outturn for 2022/23, with the £140,000 top sliced from a one-off 2022/23 revenue underspend.

This will ensure that a full programme of events is maintained and deliver a smooth transition to any new potential operator approved following the conclusion of the current process of exploring alternative commercial and community options for running Howden Park Centre.

- Moved by the Chair and seconded by Councillor Kirsteen Sullivan.

Councillor Janet Campbell moved an amendment that would instruct council officers to ensure continued operation of the four venues and in particular of Howden Park Centre until a permanent solution was found.

After taking advice from the Governance Manager, the Chair ruled that the amendment was incompetent on the grounds that it afforded open ended delegated authority to officers on a political issue and also did not address financial implications; therefore, it was invalid under Standing Order 15.

#### Decision

To unanimously approve the terms of the motion, with the addition that a further update would be presented to Council Executive on 20 June.