



MINUTES OF THE SPECIAL MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 22 NOVEMBER 2022
VIA DIGITAL MEETING FACILITY

Committee Members Present:

Provost J McMillan (Convener)
Councillor S Akhtar
Councillor E Allan
Councillor R Bennett
Councillor L Bruce
Councillor C Cassini
Councillor D Collins
Councillor F Dugdale
Councillor J Findlay
Councillor A Forrest
Councillor N Gilbert

Councillor N Hampshire
Councillor C McFarlane
Councillor C McGinn
Councillor G McGuire
Councillor S McIntosh
Councillor K McLeod
Councillor L-A Menzies
Councillor B Ritchie
Councillor T Trotter
Councillor C Yorkston

Council Officials Present:

Ms M Patterson, Chief Executive
Ms L Brown, Executive Director for Education and Children's Services
Ms S Fortune, Executive Director for Council Resources
Ms E Dunnet, Head of Finance
Ms M Ferguson, Head of Corporate Support
Mr I Gorman, Head of Operations (Health & Social Care)
Ms N McDowell, Head of Education
Ms W McGuire, Head of Housing
Ms S Saunders, Head of Communities
Ms M Sullivan, Head of Development
Ms J Tait, Head of Children's Services
Mr S Cooper, Team Manager – Communications
Ms F Currie, Committees Officer
Ms A-M Glancy, Service Manager – Corporate Accounting
Mr C Grilli, Service Manager – Governance
Mr D Henderson, Service Manager – Service Accounting
Mr P Ritchie, Service Manager – People and Council Support
Mr P Vestri, Service Manager – Policy, Improvement and Partnerships
Mr T Renouf, Executive Officer

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies

Councillor L Jardine

Declarations of Interest:

None

The Provost advised that the meeting was being held remotely, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. He noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for up to six months from the date of the meeting.

The clerk recorded attendance by roll call.

1. FINANCE UPDATE

A report was submitted by the Executive Director for Council Resources providing Council with an urgent update on the in-year financial position, which now presented a critical risk due to the escalating financial challenges facing the Council, and setting out a series of enhanced mitigation measures.

Sarah Fortune, Executive Director for Council Resources, presented the report, stressing the challenges now facing the Council, many of which were external and outwith the Council's control, such as the increasing cost of utilities, rising interest rates, unfunded pay awards, inflation as regards contracts, increasing demand on services, the costs associated with the COVID-19 recovery, and population growth. She declared that the scale of these pressures and obligations could not be sustained, and that the pressures, which were now at an urgent and critical level, were likely to continue into the next financial year and beyond. She indicated that the Corporate Risk Register would be reported to Council in December, and it would show that the financial situation was at the highest risk level ever reported. She made reference to mitigation measures already in place, but emphasised that enhanced and additional measures were now required – these measures were set out at Section 3.13 of the report. She assured Members that officers remained focused on identifying opportunities and exploring options to mitigate the risks, but warned that it was unlikely that the Council would be able to support all of its commitments and priorities without urgent additional intervention.

The Head of Finance, Ellie Dunnet, went on to explain that the Quarter 2 financial report was significantly worse than that of the previous quarter. She advised that in addition to the planned use of reserves of £13m, there was an un-budgeted in-year overspend of £5m. In addition to the unfunded pay award burden of £2m, she noted that the teachers' pay award had not yet been settled, and that if this were greater than the pay deal agreed for local government staff, the financial pressures would increase further. She also expected further increases in the costs of utilities and inflation on contracts and capital projects, as well as demand on services due to the cost of living crisis, all of which would have a lasting impact. She advised that a further update would be provided to the Council meeting on 13 December, noting that the Scottish Government would not be setting its budget until 15 December.

Councillor Hampshire asked for an estimate of how much money could be saved by implementing the enhanced mitigation measures. Ms Dunnet conceded that, even with these additional measures in place, it was unlikely that the Council would break even by the end of the financial year. She reiterated that the pressures would continue, as much of the additional expense was recurring. However, officers would work to mitigate the impact as far as possible.

Responding to questions from Councillor Bruce on the vacancy controls and building temperatures, Ms Dunnet assured him that robust controls were already in place as regards vacancies, and that future recruitment would be restricted to business critical activities. On building temperatures, she did not foresee a reduction in bills by reducing temperatures, and that this measure was more concerned with mitigating the impact of increasing utilities' costs.

Councillor Cassini asked if more could be done as regards Council Tax charges for second homes and short-term let properties. Ms Fortune explained that the Council did not currently have the powers to review Council Tax charges for short-term let properties as this would require a change in legislation.

Councillor Dugdale raised a number of questions on the devolved school management (DSM) budget and on fiscal flexibility. Ms Dunnet advised that officers were looking to temporarily suspend the automatic carry-forward of underspends on this budget, and that her team were working with the Education Service to ensure that committed work would continue. On fiscal flexibility, she explained that many of the funding streams were already committed, but that the Council had approached the Scottish Government to ascertain whether there was any scope to use resources flexibly to address the impact of the current financial position. Ms Fortune added that the pay award had left councils with a significant financial burden, and that CoSLA was taking this up with the Scottish Government. She warned, however, that it was unlikely that the Council would be able to meet the current and recurring costs without further fiscal flexibility.

Councillor McIntosh queried whether certain groups would be impacted more than others when applying controls to recruitment. Morag Ferguson, Head of Corporate Support, indicated that this would be difficult to ascertain, but that as vacancies would be managed as they arise officers could look at this; however, the focus would be on the impact on recipients of services, with officers ensuring that the same areas were not repeatedly impacted. Councillor McIntosh also asked if an update on the review of the capital programme would be reported to Members. Ms Dunnet explained that Finance officers would conduct the review, in consultation with officers within the services, and that an update would be reported to Council, possibly in December. Wendy McGuire, Head of Housing, added that the HRA capital programme would be impacted, and that officers were currently re-profiling a number of projects.

In response to a question from Councillor Gilbert, Ms Dunnet advised that the Council was unlikely to be in a position to fully mitigate the overspend in the current financial year, which would create a recurring risk. If no action was taken to identify recurring savings, the Council would be going into the new financial year carrying a deficit.

Councillor Ritchie requested further information on the risks associated with using reserves. Ms Dunnet reminded Members that, as set out in the Financial Strategy, the Council had a target of 2% of the net revenue budget to be held as unallocated reserves: £5.2m. At the beginning of the current financial year, the Council held £6.9m of unallocated reserves, and if the £5m deficit was allocated to supporting the current year's budget, that would only leave £1.9m in reserves. She suggested that the target set may have to be revisited, but that it was not desirable to take £5m from reserves.

On issues raised by Councillor Akhtar, including risk, the impact on service delivery should the Council use more of its reserves, and fiscal flexibility, Ms Fortune reminded Members that the financial challenges and the risks associated with those challenges had been a feature of the Corporate Risk Register for some years, but the level of risk was now at the highest ever recorded for the Council, mainly as a result of the external pressures outlined earlier in the meeting. This situation would impact on other aspects of the Risk Register, resulting in heightened risks more broadly. She provided an explanation on fiscal flexibility in the context of meeting obligations, noting that without national intervention it would be difficult for the Council to meet the costs of the unfunded pay burden. She added that, through CoSLA,

councils would be lobbying for a change to national policy commitments to allow for greater fiscal flexibility. She pointed out that other councils were experiencing similar financial issues, but assured Members that, as demonstrated in External Audit reports, the Council had good controls and financial management in place.

Opening the debate, Councillor McLeod remarked that the cross-party budget working group would have difficult decisions to make, and that the Council would have to be realistic about the situation.

Councillor Bruce shared this view, commenting that protecting services would need to be balanced with how much the Council could expect residents to pay. He spoke of the productive cross-party working on the budget development, and also the need to seek changes to the funding of policy obligations. He was of the view that it should be for each council to determine the model of local taxation. He also suggested that, in his letters to the UK and Scottish Governments, the Council Leader should seek an update on the budget process review carried out by James Mitchell.

Councillor McIntosh expressed concern at the Council's financial situation, noting that the recently approved East Lothian Plan was committed to protecting services for the vulnerable and giving communities a greater voice. She made reference to the recent reduction in funding to the Scottish Government, and questioned the method for funding local government given the restrictions on the Scottish Government's financial powers.

Councillor Forrest paid tribute to staff in Property Maintenance and Housing for their work during these challenging times, including the continued delivery of the affordable housing programme, support for tenants, work to address rent arrears, and dealing with homelessness despite the limited supply of accommodation.

Councillor Dugdale stressed the importance of protecting Education and Children's services, as these services were crucial for the health, wellbeing, safety and education of children and young people. She recognised that action was required at government level to protect services, and thanked managers for their efforts to work within their budgets.

Councillor Akhtar commented that it would be difficult for the Council to achieve its priorities without further flexibility over its finances. She pointed out that despite local government funding reducing over a long period and the challenging economic environment, staff were committed to providing services. She believed it would be difficult for the Council to operate within its budget at a time of significant growth in East Lothian, greater demand for services, and the current external pressures.

Councillor McGinn concurred with comments already made, adding that now was not the time to consider introducing a National Care Service, due to the significant financial impact associate with this.

Councillor Hampshire emphasised that finding solutions to the financial situation should be the priority. He noted that the Council had a duty to make the public aware of the position, and that Members had a collective responsibility to balance the budget. He remarked that the proposed actions would not be sufficient to address the scale of the problem, but that the Council had a record of strong financial management and balancing the budget. He stressed that the Council would do all it could to protect jobs and services, and hoped that Members could reach agreement on the forthcoming budget proposals.

Councillor Menzies pointed out that although the grant funding to the Council had increased each year, in real terms there was a significant reduction as the Council was being asked to do more with its funding. She spoke in opposition to austerity measures, believing that this approach did not work, and suggested that new funding streams should be sought in order to protect services, citing some examples of areas that should be explored.

Councillor Trotter echoed Councillor Hampshire's comments as regards all Members working together to address the financial situation and protect services, recognising that difficult decisions would need to be made.

The Provost concluded the debate by noting that the Council had faced difficult times in the past, and that it was important to stay focused on its vision and values.

The Provost then moved to the vote on the recommendations, which was taken by roll call and approved unanimously.

Decision

The Council agreed:

- i. to note the deteriorating financial position facing the Council during this year, and the wider impact on future budgets;
- ii. to approve the increased cost control measures proposed by the Council officers set out in section 3.13 of the report, noting that any changes to policies would need to be brought back to Members for further consideration;
- iii. to note the update on the wider financial environment and current risks;
- iv. to agree that the Council Leader would write to the UK Government and Scottish Government setting out the scale of the financial challenges facing East Lothian and calling for an urgent review of how local government is funded; and
- v. to approve that Council officers would continue to explore all practical options on wider flexibilities aligned to mitigating the recurring impact of the unfunded element of the national pay negotiations, and that further updates on proposed options and proposals be brought forward to a future Council meeting.

Signed

Provost John McMillan
Convener of the Council