



MINUTES OF THE MEETING OF THE POLICY AND PERFORMANCE REVIEW COMMITTEE

**WEDNESDAY 26 FEBRUARY 2020
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor L Bruce (Convener)
Councillor J Findlay
Councillor N Gilbert
Councillor C Hoy
Councillor G Mackett
Councillor P McLennan

Other Councillors Present:

Councillor S Akhtar
Councillor N Hampshire
Councillor F O'Donnell

Council Officials Present:

Ms M Patterson, Chief Executive
Ms L Brown, Chief Operating Officer – Education
Mr G Clark, Head Teacher – Preston Lodge High School
Mr B Davies, (Previous) Group Service Manager – Planning and Performance
Mr P Forsyth, Team Manager – Assets and Regulatory (Roads)
Ms L Kerr, Planning and Performance Manager
Ms J Mackay, Senior Communications Adviser
Ms A McDonald, Director of East Lothian Health and Social Care Partnership
Mr R Parker, Service Manager – Education (Strategy and Operations)
Ms P Pattison, Child Protection Lead Officer
Mr D Proudfoot, Head of Development
Mr T Reid, Head of Infrastructure
Mr P Reynolds, Head Teacher – Ross High School
Ms S Saunders, Head of Communities and Partnerships
Ms B Skirrow, Principal Officer – Education
Mr G Stewart, Policy Officer (Performance)
Mr A Stubbs, Service Manager – Roads
Ms J Tait, Chief Operating Officer – Children's Services and Chief Social Work Officer
Mr G Talac, Senior Roads Officer (Parking & Sustainable Travel)
Mr P Vestri, Service Manager – Corporate Policy and Improvement

Clerk:

Ms B Crichton

Apologies:

Councillor C McGinn
Councillor T Trotter

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PPRC, 9 OCTOBER 2020

The minutes of the meeting of the Policy and Performance Review Committee of 9 October 2019 were approved.

6. SOCIAL CARE CHARGING AND APPEALS

The Committee agreed to change the order in which items were heard due to having invited members of the social care charging group to attend for this item.

A report was submitted by the Director of the East Lothian Health and Social Care Partnership to update the Committee on the impact of changes made to social care charging in 2018/19 in relation to the numbers of people attending services, the numbers of appeals and their outcomes, and the income generated as a result of the changes.

Bryan Davies, previous Group Service Manager – Planning and Performance, took Members through the report in detail, highlighting the key issues, including: the timeline of changes; outcomes of appeals; the appeals review process and improvements to be made on the basis of feedback; and the largely static uptake of various services (apart from the decrease in use of community alarms, now increasing once again). He advised that a draft Non-Residential Charging Policy had been completed, and discussed reasons this was yet to be finalised.

Alan Brown, member of the social care charging group, provided Members with some information about the group. He highlighted some specific information that he insisted ought to be shared with the charging group. He provided information on various issues the group considered; he highlighted the harmony of thresholds between service users under and over 65 and stated that current practice represented direct and indirect discrimination against a protected group i.e. age. He argued that current financial assessment forms were not fit for purpose. He also raised the issue of transparency when officers who had managed and administered the services also led appeals.

Mr Davies responded to some of the issues Mr Brown had raised. He advised that the issue of the under- and over-65s threshold currently sat with COSLA; he highlighted issues regarding the Department of Work and Pensions and stated that the Health and Social Care Partnership's position on this would not change until after the 2021 COSLA guidance had been published. He advised that the financial assessment form had been improved, but indicated that the service would be prepared to look at this again. Mr Davies advised that the issue of independent management of appeals did need to be addressed and would improve the process; he agreed that the appeals panel membership probably ought to be extended.

Councillor McLennan thanked Mr Davies, who had recently left his post, for returning to present his report. He asked about the static uptake in services, as this would not represent a positive outcome if there had been an increase in demand for services that could not be matched. Mr Davies advised there was nuance in the numbers reported, and that obtaining this information was in hand.

Councillor McLennan questioned whether making a change to the issue of the under- and over-65s threshold required to go through COSLA, and whether East Lothian Council could make this decision prior to the publication of COSLA guidance. Mr Davies confirmed that COSLA provided only guidance, and therefore it would be possible to make a decision locally to equalise the threshold. Mr Davies pointed out the risk in making this decision in the absence of COSLA guidance, as a change to policy would have a significant impact on the two groups.

Councillor O'Donnell suggested that COSLA guidance be awaited to avoid having to undertake further review post-publication. She expressed that gradual equalisation would be considered between under- and over-65s, which ideally should be cost neutral given pressures on the budget. She proposed to build in consideration of Disability-Related Expenditure (DRE) right at the beginning of the process.

Councillor McLennan suggested that involvement of independent advocacy would be key to improving the appeals process. Mr Davies advised that DRE would also be considered at the appeals stage on an individual basis. He agreed that it would be good to have an independent advocate as a member of the appeals panel. He noted that policy had been developed over a number of iterations and the charging group's suggested amendments to the policy were likely to be implemented.

Councillor McLennan questioned how the process would be reviewed going forward. Councillor O'Donnell suggested that politics needed to be taken out of responses and highlighted the importance of certainty for service users. She suggested that greater certainty would be provided should a link be forged with Universal Credit.

Mr Brown remarked that there was an apparent misunderstanding of legal requirements given that age discrimination in charging persisted. Councillor O'Donnell replied that there perhaps needed to be a legal challenge given that government and local authorities had a system in place that treated people differently based on their age.

Councillor Hampshire enquired as to the practice of other local authorities. Mr Davies advised that through the national COSLA group it had been possible to gain a sense of how other local authorities levied charges. He stated that although East Lothian's system was not perfect, he was confident that it compared favourably to many other local authorities, some of whom neglected to consider DRE at all in financial assessments.

Responding to questions from Councillor Mackett regarding the frequency and range of appeals received, Mr Davies advised that there were seven appeals currently pending, and a broad range of appeals had been heard.

Councillor Findlay questioned what the personnel or financial implications would be should the Health and Social Care Partnership move to flat fees. Mr Davies advised that day care was currently a flat fee charge, as this was not linked to financial assessments; there could be a loss of income to the council should all services be linked to financial assessments.

Councillor Gilbert asked about the cost of appeals. Mr Davies advised that appeals had not been costed, but noted that they were undertaken by existing officers as part of their work duties. He informed Members that appeals were heard once a month, and various officers with detailed knowledge of particular circumstances would attend in relation to specific cases. Mr Brown pointed out that the service user had no role in the appeal process.

Councillor McLennan highlighted the significant impact this policy had on service users. He suggested that this ought to be considered by PPRC again from a financial and legal position in around in six months' time, and to consider the role of advocacy going forward.

The Convener suggested that a cross-party group consider next steps, as this ought not to be a political matter; he recommended that it be taken further offline.

Decision

The Committee agreed to note the findings contained within the report.

Sederunt: *Councillor O'Donnell left the meeting.*

2. 2019/20 Q3 PERFORMANCE INFORMATION UPDATE

A report was submitted by the Head of Communities and Partnerships to provide the Committee with the 2019/20 Q3 performance information update.

Gary Stewart, Policy Officer (Performance), spoke to the report. He provided Members with an overview of some of the performance figures quoted and summarised reasons behind changes in performance.

Officers responded to questions from Members. Councillor McLennan sought comment on the time taken to issue building warrants. Tom Reid, Head of Infrastructure, advised of considerable difficulties in recruitment of building standards officers being experienced nationally. He advised that a graduate scheme through Heriot Watt University should help redress the shortage of suitably-qualified candidates.

Councillor McLennan also requested comment on the change in performance regarding measure HSCP_CS02 (percentage of children on the Child Protection Register for more than six months). Judith Tait, Chief Social Work Officer, advised that she was pleased with the performance in this area, and noted that the size of the families involved made a significant difference to the figures.

The Convener enquired whether the low figure quoted at HSCP_01 (number of delayed discharge patients waiting over two weeks) could be sustained. Alison McDonald, Director of Health and Social Care for East Lothian, spoke of the significant journey involving changes to services undertaken over the previous four years. She advised of the trajectory target of not more than 12 delayed discharge patients waiting over two weeks; she advised that a large number of people could be referred at one time. Therefore, assurance could not be given that the figure would remain at just one, but a significant redesign of services had already taken place.

Decision

The Committee agreed to note that the indicators which showed a reduction in performance were being monitored to track whether negative trends continued and required further improvement action.

3. EAST LoTHIAN AND MIDLoTHIAN PUBLIC PROTECTION COMMITTEE ANNUAL REPORT 2018/19

Judith Tait, Chief Social Work Officer, presented the East Lothian and Midlothian Public Protection Committee Annual Report 2018/19 on behalf of Anne Neilson, Committee Chair. Ms Tait highlighted work undertaken with other agencies and efforts being made to increase police attendance at Adult Support and Protection conferences where necessary. She noted that although the number of children on the Child Protection Register remained reasonably static, East Lothian's population growth would mean that numbers would be expected to rise. She noted further points, including: the national issue of missing young people and strengthened responses; income maximisation priority for families with children on the Child Protection Register; the continued rise in demand for services which to victims of violence against women and girls, and difficulties in maintaining a service offer while awaiting funding assurances; positive comments made in a recent evaluation by the Care Inspectorate of Connect, which targets women with involvement, or who could have future involvement, in the criminal justice system; and a review taking place of social work's learning and development offer going forward.

The Convener commented that initial point of assessment until access to services seemed to take a long time. Ms Tait advised that timing of funding decisions and availability of services would be the cause of these delays.

Councillor Hoy questioned why wait times from point of initial assessment to the first long-term support session for survivors of sexual abuse was significantly shorter in Midlothian, and questioned whether national awareness could account for the increase in sexual crimes being recorded by the police. Trish Pattison, Child Protection Lead Officer, advised that there were issues around funding ending and new funding decisions being made, and understood there to be ring-fenced funding in Midlothian. Ms Tait would ask police about approaches in Midlothian.

Councillor Mackett raised the issue of violence against men and boys. Ms Tait stated that she had sent information to Councillor Mackett previously that she thought would be helpful. She advised that there was no lack of support amongst staff for male survivors of violence, but she acknowledged the challenge about whether there was enough support for men and boys to come forward in the first place. She stated that the data was very clear, but that underreporting by males may account for some of this; she suggested that the police may be happy to speak about this. She stated that support was available to all, but advised of the specific government strategy regarding violence against women and girls.

Councillor Findlay questioned whether there was a gap in there being no subgroup for child protection. Ms Tait advised that Child Protection was very well represented in other subgroups and by the main committee and felt confident that there was adequate protection and profile.

Councillor McLennan questioned whether we monitored abuse against transgender people, and whether there was an onus on local authorities to look at this due to the mental health implications for those affected. Ms Pattison advised that the principal policy around violence was MARAC, and there was guidance about not making comment about gender other than what may be presented; she advised that the Committee was aware of it but not measuring it specifically, but that it made sure that the needs of the individual were met.

Councillor Gilbert questioned whether action towards people displaying hoarding behaviour differed depending on whether they were a tenant or an owner-occupier. Ms Tait advised that this made no difference as only vulnerability was considered; social work had spent time clearing houses to guard against fire hazards, but had also considered their approach to helping people to look more at the causes of hoarding behaviour, such as earlier abuse and neglect.

Decision

The Committee agreed to note the report.

4. LOCAL GOVERNMENT BENCHMARKING FRAMEWORK 2018/19

A report was submitted by the Head of Communities and Partnerships to provide the Committee with a summary of East Lothian Council's performance of the Local Government Benchmarking Framework results for 2018/19.

Paolo Vestri, Service Manager for Corporate Policy and Improvement, spoke to the report, noting that this year's report was stark in terms of finance and expenditure. He highlighted some differences between the current report and last year's figures, but noted that Audit Scotland were of the opinion that councils were performing relatively well despite facing budget cuts. Mr Vestri provided an overview of the categories in terms of their performance. He noted that the issue of resident satisfaction, and compared data to the Scottish Household Survey. He also highlighted some of the positive indicators, including

improvements to school exclusion rates, and areas for further investigation and improvement.

Officers responded to questions from Members. The Convener questioned why the resident's survey was considered to be more representative than the figures quotes in the Local Government Benchmarking Framework (LGBF). Mr Vestri advised that only 200 people were included in the LGBF survey, but there were significantly more respondents to our own residents' survey; it was also possible to exude 'don't know' responses from our own results.

Councillor Gilbert questioned whether it would be possible to benchmark the environmental performance of councils. Mr Vestri stated that an annual report was provided by East Lothian Council and that national reports were issued. Douglas Proudfoot, Head of Development, advised that, before suggestions were made to alter the LGBF, he would keep a close eye on the Scottish Government Climate Change Management Plan and tie in with Mr Vestri.

Councillor McLennan enquired as to whether there was work going in to establish the reasons why CHN6 (% of Pupils from Deprived Areas Gaining 5+ Awards at Level 5) had been in decline. Lesley Brown, Chief Operating Officer for Education, advised that closing the poverty-related attainment gap remained a priority, but, according to data, the gap was widening in East Lothian. She advised of target-setting and being clear as to where we were as a local authority. Ms Brown also advised that East Lothian was seeing the detrimental effect of schools not being in receipt of Scottish Attainment Challenge funding. She agreed to provide Councillor McLennan with the exact numbers of pupils involved. She advised that it was now recognised that there was an East/West divide due to the differences in funding, and there was no longer a level playing field.

Gavin Clark, Head Teacher of Preston Lodge High School, gave an account of some of the analysis, support, and initiatives being used to support pupils, and advised that there was now a much greater focus on student experience. He advised that translating inputs and interventions into attainment had been challenging. Paul Reynolds, Head Teacher at Ross High School added that his school had focused particularly on literacy and numeracy, health and wellbeing, resilience, and reducing exclusion rates. He advised that funding was allocated only to those who benefitted from free school meals, and the school was doing work with the Citizen's Advice Bureau to help parents who were eligible claim free school meals for their children.

Councillor McLennan sought comment on care services rated 'good' or better (SW 7). Ms Tait advised that a broad range of care services had been included; the figures had not been segmented to look at weaker areas, however, some recent inspections of care services had come out very positively. Ms Tait undertook to provide the Care Inspectorate's descriptors for its six-point grading system to the Convener. Mr Vestri noted that the figure included private and voluntary sector care services, and not only council-run facilities.

Councillor Findlay questioned why SW4b (% of adults who agree that their services had an impact in improving their quality of life) was reported on only every two years. Mr Vestri advised that this research was conducted at national level; East Lothian Council could undertake the research annually, but it would not be reported as part of the LGBF. Ms Tait advised that the Integration Joint Board would have a set of measures that would report more frequently than every two years.

Councillor Hoy questioned whether the figures previously discussed at CHN6 (% of Pupils from Deprived Areas Gaining 5+ Awards at Level 5) would have a direct impact on the number of pupils going to go on to university. Ms Brown noted that East Lothian Council were not complacent regarding small cohorts, and that young people were accessing university as part of a government driver for wider access. Schools were also now looking at foundation apprenticeships, equivalent to a Higher, as other routes to further education.

In response to further questions from Councillor Hoy, Ms Brown stated that she would not anticipate a reduction of the number of young people going to university from school based on the figures quoted at CHN6. Mr Reynolds provided examples of pathways for pupils, including accessing a Sutton Trust Summer School, which was fully funded and aimed at pupils who may want to try out university if they were the first from their family to attend. He advised that numbers going to university would not decrease because it was not a viable pathway, but rather because schools helped pupils move on to a wide variety of positive and viable pathways open to them.

Decision

The Committee agreed to note that services were reviewing all indicators shown to have declined or remained stable and were using the Improvement Service benchmarking groups to assist in developing improvement plans to improve performance.

5. COASTAL CAR PARK PERFORMANCE REPORT

A report was submitted by the Head of Infrastructure to update the Committee on the income generated and performance of the coastal car park sites in East Lothian.

Peter Forsyth, Team Manager – Assets and Regulatory, spoke to the report. He highlighted income forecasts and recent trends, including a significant increase in the purchase of Ringo vouchers. He provided information about parking attendant visits and some of the trends in car park use. He highlighted future plans to upgrade bathroom facilities to encourage more people to stay longer and pay for parking.

Mr Forsyth responded to questions from Members. Responding to a question from the Convener, Mr Forsyth confirmed that Ringo was an app used by customers who wished to pay for their parking on their phones.

Councillor McLennan questioned the budget set each year for coastal car parking. Tom Reid, Head of Infrastructure, advised that this had been a corporate decision at finance level, and his team had worked tirelessly to try to close the funding gap. He noted that income was reliant to an extent on the weather, but stated that he liked to set difficult objectives that could be achieved. Mr Forsyth confirmed that the budget was a net figure.

Councillor McLennan questioned why the target income for coastal car parking had not been amended when each year there was a budget shortfall; he judged that other services would be affected by this approach to budgeting. Monica Patterson, Chief Executive, stressed that, whilst income targets were ambitious and not yet being fully realised, income from coastal car parking still generated a significant income for the council each year, which helped to relieve other financial pressures.

Responding to another question from Councillor McLennan, Mr Reid advised that all charges would be received before 31 March 2020, and increasing parking charges would be an option.

Councillor Findlay questioned whether the UK leaving the European Union would mean that it would now be possible to offer a cheaper local residents' rate; EU law had previously been cited as the reason no distinction could be made in charging. Mr Reid thought that the EU law had been adopted into UK and Scots law, and therefore East Lothian Council would still not be in a position to alter the policy on charging for local residents.

Councillor Hampshire enquired whether the investment to coastal car parking sites could have been afforded without the income from parking charges. Mr Reid advised that repayment of investment had almost been achieved, and replied that the investment to sites could not have been afforded without car parking income. He informed Members that a

capital and tourism grant that had been secured for bathroom facilities at a car parking site in Gullane.

In response to a question from Councillor Gilbert, Mr Forsyth advised that it would cost around £25,000 to replace/upgrade all ticket machines in car parks to have contactless payment capabilities; this would be done on a staged basis when machines required to be replaced. Councillor Gilbert also questioned how 25% of income being spent on maintenance compared to other services. Mr Forsyth undertook to check figures with the City of Edinburgh Council and provide a response to Councillor Gilbert.

Responding to a question from Councillor Findlay, Mr Forsyth advised that the figures for Gullane Bents were split into three due to one of the two ticket machines having to be replaced due to vandalism.

Councillor McLennan commented that charging was a political decision and he had issues with the modelling used. He urged Members that with income 43% short of target, it was unrealistic to continue to set a budget based on those figures. He proposed that the PPRC raise that the budget had been overset. Councillor Findlay agreed that the PPRC should look at this issue. The Convener suggested that he would investigate what could be done as a PPRC around budget issues raised. Councillor McLennan proposed that the PPRC request that the budget for coastal car parking be reviewed if this would be possible, and Councillor Gilbert seconded; this was agreed by the Committee.

Councillor Hoy commented that Members should be careful when using the term 'political decision-making', and highlighted that the income would not have been achieved without investment into sites; he commended officers for raising these revenues on behalf of East Lothian Council.

Decision

The Committee agreed to:

- i. note the income generated in financial years 2015/16, 2016/17, 2017/18 and 2018/19;
- ii. note the improvements made to the coastal car parks to date and that a further £450,000 had been committed to coastal car parks with additional grants in excess of £200,000 budgeted over the next two years.
- iii. note the number of penalty charge notices (PCN) issued by Parking Attendants in coastal car parks from the start of the service on 23 January 2017; and
- iv. request that the budget for coastal car parking be reviewed.

Sederunt: *Councillor Mackett left the meeting.*

7. INSTRUMENTAL MUSIC INSTRUCTION SERVICE UPDATE

A report was submitted by Depute Chief Executive (Resources and People Services) to update the Committee on the Instrumental Music Instruction (IMI) service, including the introduction of charging for the service in 2018.

Richard Parker, Education Service Manager (Strategy and Operations), spoke to the report. He provided a timeline for the introduction of charging and highlighted uptake before and after the introduction of charging. He advised that the target income was set at 50% of service delivery costs. He highlighted concessions made for pupils in particular circumstances, as well as reasons behind some money being refunded due to tutor absence

and the resultant creation of a tutor supply list. He also highlighted system developments and procedures, including the creation of a specific mailbox for the IMI service to aid communication with customers. He informed Members that an additional concert had been included this session, which was taking place at North Berwick High School the following week.

Councillor McLennan noted that the anticipated income for the full financial year 2019/20 worked out around 47% of what had been budgeted, and questioned whether there were further costs to come off the income figures quoted. Mr Parker agreed there was a shortfall in budget, but highlighted that this was a growing service and a new manager had been appointed; although the expected income was ambitious, there was still capacity to increase numbers. Mr Parker agreed to confirm the savings target and provide a response to Members. *Post meeting note: the £357k figure discussed in the meeting as target savings for each year were later established to be £240k (recurring). Therefore, anticipated income for the full financial year 2019/20 represented around 71% of what had been budgeted.*

Councillor Hoy asked whether anything more could be done regarding discretionary funds and concessions for families. Mr Parker advised that some parents had been referred to the East Lothian Education Trust for assistance. The threshold amount for applications is linked to Educational Maintenance Allowance and free school meals. He advised that the limit for concessions was set and indicated that the service would explore further ways of supporting parents.

Councillor Gilbert noted that the number of pupils taking up tuition had dropped by 5%, and questioned whether it could reasonably be expected that this shortfall would have been addressed by the end of the financial year. Mr Parker stated that staff continued to promote the service, which was leading to positive enquiries; many tutors would take on some additional pupils in that time. He advised that the service was being promoted in a range of schools to try to achieve as much equity as possible. Councillor Gilbert requested that Mr Parker provide him with the final figures at the end of the year.

Councillor Akhtar requested information on how East Lothian Council's uptake compared to that of other authorities. Mr Parker advised that the anticipated drop-out rate had been 16% when charging had first been introduced, but it had in fact been only 5%. He highlighted that a professional musician, who currently worked with the military, had been appointed to the Team Manager role and would be focusing on raising the profile of the service.

Councillor Hampshire questioned how the service was managing to achieve a spread of provision between all the schools. Mr Parker advised that the new Team Manager would look at particular areas for improvement; there was some strength needed in particular instruments and further growth in pupil numbers needed. He was confident that numbers would increase.

Councillor McLennan suggested that, as there would be a significant shortfall and unrealistic targets had been set, the Audit and Governance Committee be contacted to raise these issues with them. Ms Patterson stated that a regular report went to the Audit and Governance Committee which explained any variance between targets and income; the Committee were kept up to date with all matters financial. She highlighted that, according to Audit Scotland reports, East Lothian Council remained in a favourable position.

Councillor McLennan commented that concerns raised about budgeting should be mentioned at the following week's budget meeting. He proposed that the Audit and Governance Committee be contacted to highlight to them issues in budget setting for the IMI service. Councillor Findlay seconded this proposal, and this was agreed by the Committee.

Decision

The Committee agreed:

- i. to note the content of the report and the ongoing review of the IMI service; and
- ii. contact the Audit and Governance Committee to highlight to them issues in budget setting for the Instrumental Music Instruction Service.

8. WORK PROGRAMME

An updated Work Programme detailed the reports already scheduled for the Committee for the remaining meetings in session 2019/20.

The following reports were added to the work programme, as requested by Members:

- Review of Performance of Planning Committee (June 2020)
- Review of Impact of Immigration Policy on East Lothian (particularly hospitality/agriculture/social care sectors) (June 2020)
- Review of Social Care Charging (in light of new COSLA guidance) (October 2020)

The Convener also agreed to provide an update on the Instrumental Music Instruction Service to the Committee.

Ms Patterson requested that officers provide a response to Councillor Gilbert prior to the next PPRC meeting regarding Preston Tower and Doocot. Councillor Gilbert wished for this to remain on the agenda for the June PPRC meeting.

Signed

Councillor Lachlan Bruce
Convener of the Policy and Performance Review Committee