



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 12 DECEMBER 2023
VIA DIGITAL MEETING FACILITY

Committee Members Present:

Provost J McMillan (Convener)	Councillor N Hampshire
Councillor S Akhtar	Councillor L Jardine
Councillor E Allan	Councillor C McFarlane
Councillor R Bennett	Councillor C McGinn
Councillor L Bruce	Councillor G McGuire
Councillor C Cassini	Councillor S McIntosh
Councillor D Collins	Councillor K McLeod
Councillor F Dugdale	Councillor L-A Menzies
Councillor J Findlay	Councillor B Ritchie
Councillor A Forrest	Councillor T Trotter
Councillor N Gilbert	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 L Byrne, Head of Children's Services
Ms E Dunnet, Head of Finance
Ms M Ferguson, Head of Corporate Support
Ms N McDowell, Head of Education
Ms W McGuire, Head of Housing
Mr T Reid, Head of Infrastructure
Ms S Saunders, Head of Communities
Mr S Cooper, Team Manager – Communications
Ms R Crichton, Committees Officer
Ms A-M Glancy, Service Manager – Corporate Accounting
Mr S Kennedy, Team Manager – Emergency Planning and Resilience
Ms M Scott, Committees Officer
Mr P Vestri, Service Manager – Policy, Improvement and Partnerships

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

None

Declarations of Interest:

Councillor Yorkston declared an interest in Item 6, on the grounds that he is a branch representative for the EIS.

For transparency purposes, the following Members advised of the following, in relation to Item 6:

Councillors Akhtar, Bennett, Dugdale, Hampshire, McGinn and McIntosh – members of a trade union

Councillor Cassini – member of a church

Councillors Forrest, McMillan and Ritchie – members of a church and a trade union

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. MINUTES FOR APPROVAL

The minutes of the following meeting were approved: East Lothian Council, 31 October 2023.

2. FINANCE UPDATE

A report was submitted by the Executive Director for Council Resources, providing an update on the financial situation facing the Council, including an update on the in-year financial position at the end of September 2023, agreed mitigations and capital programme review, as well as the future financial outlook.

The Head of Finance, Ellie Dunnet, presented the report, informing Members that the overspend situation had improved by £2m since period 5, and that as at the end of period 6, the forecast overspend for the year was £20.2m. She declared that this overspend was unacceptably high and unsustainable. She confirmed that the previously approved mitigation measures remained in place but stressed that these were designed to be temporary measures, and that longer-term change was required to be sustainable. She drew attention to the report appendices and highlighted the key points contained therein. Ms Dunnet reported that Audit Scotland would complete their audit work in the coming weeks.

On the funding shortfall regarding foster care allowances, Councillor Dugdale asked what the impact of this would mean for the Council. Ms Dunnet confirmed that the new rates would not be fully funded and that the Council would need to meet the shortfall, c. £260,000. She advised that this would need to be factored into the 2024/25 budget.

Councillor Bruce asked about the long-term financial risks to the Council. Ms Dunnet reported that it was unlikely that the Council would be insolvent by the end of the current financial year, but if the overspend could not be reduced, then the Council would face insolvency within the next 12-18 months.

With reference to the level of overspend within the Integration Joint Board (IJB) budget, Councillor Hampshire asked if there were sufficient IJB reserves to meet this overspend. Ms

Dunnet expected that the IJB would continue to mitigate the overspend and that any remaining overspend at the end of the financial year could be met through the use of IJB reserves. However, if the overspend could not be mitigated by the use of reserves, then the liability would fall to the IJB partners – the Council and NHS Lothian – to meet.

Councillor Menzies asked if data had been collected on applicants to the Scottish Welfare Fund. Ms Dunnet advised that data was available for successful applicants, but that she would have to look at other data available and the resulting impact on other services. She noted that demand for services across the Council had increased, which would need to be reflected in the budget.

In response to questions from Councillor Jardine regarding assumptions, Ms Dunnet provided an explanation as to how decisions were taken, and of the ‘lessons learned’ approach to planning efficiency savings. She was confident that some of the unmet savings would be realised in the new financial year. Councillor Jardine also sought access to documentation from Local Development Plan 1 (LDP1) relating to the impact on revenue. Sarah Fortune, Executive Director for Council Resources, advised that detailed modelling on capital and revenue had been carried out for LDP1, and that it had been assumed that the revenue implications would be reflected through the national settlement. However, since the adoption of LDP1, there had been continued pressure on funding settlements, as well as a number of external factors, which had impacted the Council, and this had been raised over recent years. She undertook to provide Members with further detail on this.

Councillor Ritchie asked how ongoing reductions in capital funding over many years would impact the Council’s ability to invest in schools and other assets going forward. Ms Dunnet advised that this may result in additional borrowing. She assured Members that this issue had been raised at CoSLA and with the Scottish Government and other agencies. Ms Fortune added that the local government settlement was unlikely to increase in the medium term, but that the Council would continue making its case for additional funding to meet growth.

Councillor Akhtar made reference to pressures on health and social care services, and she advised that representation had been made to the Scottish Government as regards the Scottish Welfare Fund. She asked if there was any update on this. Ms Dunnet advised that a response had now been received as regards Councillor Hampshire’s letter to the Deputy First Minister, which acknowledged the challenges being faced by the Council but stating that there was no additional funding available. She stressed that it was important to continue to make representation and highlight these challenges. Ellie to provide letter to Members

Opening the debate, Councillor Hampshire welcomed the reduction in the overspend. He pointed out that the pressures on services were largely due to growth, and that Council Tax only covered around 25% of the Council’s running costs. He thanked staff for their efforts to operate within budget and reduce the cost of providing services, but warned that the challenges facing the Council were significant. With reference to the opening of the new train station at East Linton, he indicated that this would make the village a more desirable place to live, which would drive up house prices and make it difficult for local people to purchase a home there. He also reminded Members that the Council had failed in its bid for funding to build a new primary school in East Linton, stressing that it was vital for the Scottish Government to provide funding for this facility in light of projected growth. He advised that he had discussed the pressures of growth with the First Minister during the Scottish Government’s visit to East Lothian on 11 December.

Councillor Menzies agreed that continued growth was a concern. However, she was critical of the development of large houses throughout East Lothian without new services being provided. She suggested that the threshold for the provision of social housing should be raised, noting that 35% of properties in the county were in Council Tax bands E-H, compared with a national average of 25%. She called on Members to stop blaming the Scottish Government for the situation and to focus on finding solutions.

Noting that the mitigation measures in place were only temporary, Councillor McIntosh stressed the need to make urgent policy decisions to deliver services differently and raise additional revenue, noting that the Council had not implemented workplace parking charges or pavement parking charges, which could provide additional funding for education and health and social care.

Councillor Jardine welcomed the opportunity to be included in the discussions with the First Minister and Deputy First Minister. She argued that the Council's financial challenges were as a result of thirteen years of austerity. She referenced the emphasis on the wellbeing economy in the Economic Development Strategy, adding that the Council should focus more on the potential economic development opportunities presented by growth. On the pressures on services, she looked forward to scrutinising the relevant documentation from LDP1 as regards the financial impact of new housing developments.

Councillor Akhtar indicated that East Lothian Council was among the worst-funded local authorities in Scotland in terms of both revenue and capital funding, at a time when it was also one of the fastest growing authorities. She commented that the CoSLA 'floor' parameters had been set by the Scottish Government, and that East Lothian lost out on funding through this mechanism – she noted that this had been discussed with the First Minister. She added that the Council had also lost out on funding for homelessness, 1140 hours [early learning and childcare] and clothing grants. She reiterated that the Scottish Government had to recognise the Council's position in relation to the impact of growth. Responding to comments made by other Members, Councillor Akhtar remarked that, in the past, the Council had refused planning permission for developments containing large houses, but these had been appealed and overturned by the Scottish Government. On the Council Tax consultation, she pointed out that additional tax raised in East Lothian would not all come back to East Lothian, which she argued was not acceptable. She concluded her contribution by stating that the Council could not continue to grow without full funding from the Scottish Government.

Councillor Akhtar's comments were supported by Councillor Dugdale, who added that there was also a shortfall in the funding for fostering. She welcomed the new allowance rates for foster and kinship carers, and stated that the Council was committed to delivering The Promise, but she was disheartened that this would not be fully funded.

Councillor McGuire warned that there were challenging times ahead for the Council, remarking that 'passing the buck' would not provide a solution. He called on the Council to work together and to be more innovative and proactive. He shared comments made by others regarding demanding additional funding from developers.

Decision

The Council agreed:

- i. to note the outcome of the Period 6 review of financial performance against approved budgets and the significant underlying financial pressures faced by the Council;
- ii. to note the impact on the Council reserves if the projected revenue overspend materialises;
- iii. to note the severity of the financial risks set out in the report that may impact on the position;
- iv. to note the performance against prudential indicators, as set out in Appendix 5 to the report.

3. FINANCIAL AND CAPITAL STRATEGIES 2024-29

A report was submitted by the Executive Director for Council Resources providing an update on the financial outlook facing the Council; providing an update on the budget development process, which would inform the setting of budgets for 2024/25; and seeking approval for the 2024/25 to 2028/29 Financial and Capital Strategies.

The Head of Finance, Ellie Dunnet, presented the report, advising that the strategies had been updated to reflect the national context, including the Autumn Statement. She reiterated the challenges facing the Council, but noted that the principles outlined in the strategies remained appropriate to responding to these challenges. She drew attention to a number of key aspects of the strategies, including risk, assumptions, and the anticipated funding gap. She also highlighted the proposed budget development process, noting that this was subject to change due to the parliamentary timetable and proposed that authority be delegated to the Chief Finance Officer and Monitoring Officer, in consultation with Group Leaders, to make alterations to the process, if required.

Councillor McLeod questioned the value of preparing five-year budget plans when the grant settlement only covered one year. Ms Dunnet accepted that it was difficult to plan ahead with only single-year settlements being provided but advised that the Council had to make medium-term assumptions, as well as setting a longer-term plan to deliver savings, deliver priorities, and ensure balanced budgets going forward. She felt it was appropriate to plan ahead in this way.

Councillor Hampshire asked about the level of savings achieved over the past ten years. He also asked about the impact of growth, noting that only 25% of the Council's income came from council tax revenue. Sarah Fortune, Executive Director for Council Resources, reported that the Council had made savings of £81.7m since 2015. Ms Dunnet confirmed that there were significant pressures on the Council as a result of growth, but that there were also other factors such as rising inflation, increased demand on services, and pay awards. She added that the Council had lobbied for additional funding to meet the impact of growth.

In response to a question from Councillor Menzies on the public consultation on the budget, Ms Dunnet advised that this was a key part of the Council's budget planning process, and that efforts were made to engage as widely as possible. This work was accompanied by impact assessments. Councillor Menzies also asked for an update on the review of rent levels. Wendy McGuire, Head of Housing, pointed out that the annual rent consultation exercise was underway (closing date 15 December). She noted that East Lothian rents remained among the lowest in Scotland. She anticipated that a consultation on a revised rent model would take place in mid-2024.

Councillor Bruce sought further information on progress regarding the five categories outlined for the General Services Financial Strategy (section 7 of the Financial Strategy). Ms Dunnet referred him to the report to Council in June, which had set out £14-15m of investment to support critical enablers. She advised that some of this funding had been used to support the ongoing asset review and energy transformation projects. Officers were currently working on a refresh of the Transformation Programme, and further details on this, and progress achieved, would be included in future finance update reports. She stressed that change would not happen quickly.

On a question regarding rent arrears from Councillor Forrest, Ms Dunnet reported that work was ongoing to address this, noting that officers were always happy to look at how other authorities were tackling such issues.

Responding to questions from Councillor Jardine on key assumptions, Ms Dunnet provided an explanation as to the impact of increased employer contributions for pensions, noting that it was still unclear if this would be fully funded. She noted that there were mixed approaches

across the various pension schemes, but she emphasised the importance of ensuring that the pension fund would be able to meet future liabilities.

Councillor Akhtar asked how much of the additional spending consequential provided to the Scottish Government would be passed on to local government. Ms Dunnet advised that it should not be assumed that additional funding would come to local authorities. She indicated that the pay award would not be fully funded, with only 3% being earmarked for this in the current year. She added that clarity was being sought on meeting future pressures on a recurring basis – this would be reported back to Council in due course.

Councillor Bruce expressed his concern about the Council's ability to deliver the proposed Financial Strategy, given the extent of the projected funding gap. In particular, he questioned the delivery and impact of the Transformation Programme, and how long it would be before the benefits of this programme were realised. He noted that he was unable to support a Financial Strategy that placed so much emphasis on the assumptions made around the Transformation Programme, and he called for significant reform of services to be undertaken. On the Asset Review, he felt that the targets were too ambitious, and that on the reduction of workforce costs, which accounted for c.60% of the Council's budget, he recognised that the current mitigation measures in place were only temporary, and that further action would be required. On those grounds, he declared that he would not be supporting the Financial Strategy.

Councillor McIntosh also voiced her concerns about the strategies, as she felt they contained assumptions that more growth would resolve the Council's financial problems. She argued that delivering economic growth did not mean that there would be a trickle-down effect, and that there was no recognition in the strategies that this would only happen through wealth redistribution. She advised that she had been shocked to discover that other local authorities were receiving more funding than East Lothian, noting that the funding issues stemmed from austerity and the Scottish Government not being properly funded. She stated that she would abstain on this item.

Remarking that he was not seeking to be political on this issue, Councillor Hampshire stressed that the Council was in a very difficult position and that help from both the UK and Scottish Governments was required to deal with the impact of growth. With reference to comments made by Councillor Bruce, he noted that the Head of Finance had reported savings of £80m through transformation projects, and that officers continued to look at ways to reduce costs. In addition, services were being delivered by fewer staff. He called on other political groups to put forward ideas for future savings. On Scottish Government funding, he pointed out that East Lothian was the third-lowest funded council despite the population growing by c.25% in recent years. He referred to the work done on LDP1, and of the significant developer contributions generated by that growth, but claimed that revenue funding had not kept pace with that growth. He stated that the Planning Service would do all it could to work with developers during the LDP2 process regarding the housing mix but anticipated that developers would argue that the demand was there for larger houses. He maintained that the Council's financial situation was not of its own making, but that the proposed Financial Strategy would help improve the Council's position.

Councillor Menzies indicated that the Council's financial situation was a result of 13 years of austerity, which had affected every local authority in the UK. She recognised that staffing costs were high, but reminded Members that these costs related to people's lives and the local economy, and that cutting staff could be catastrophic. She suggested that the Council should focus instead on maximising income, as central funding was unlikely to be increased.

Councillor Jardine was critical of the current UK-wide political situation. While she accepted that the SNP Group did not have the answers to solve the Council's problems, she did not think that the Administration would be able to deliver solutions. She called on the Council Leader to have an honest dialogue with communities rather than 'passing the buck'.

Councillor McGinn responded to these comments, arguing that the blame for the Council's financial situation lay with the UK and Scottish Governments. He believed that all Members wanted the best outcomes for constituents.

Concluding the debate, the Provost spoke of the importance of collaborative working. He paid tribute to Councillor Hampshire for leading on cross-party working as regards the budget process.

The Provost moved to the roll call vote on the recommendations:

For (17):	Councillors Akhtar, Allan, Bennett, Cassini, Dugdale, Forrest, Gilbert, Hampshire, Jardine, McFarlane, McGinn, McLeod, McMillan, Menzies, Ritchie, Trotter, Yorkston
Against (4):	Councillors Bruce, Collins, Findlay, McGuire
Abstentions (1):	Councillor McIntosh

Decision

The Council agreed:

- i. to note the update on the financial outlook facing the Council;
- ii. to note the changes to the current approved strategy and approve the updated Financial Strategy for 2024/25 to 2028/29, as set out in Appendix 1 to the report;
- iii. to note the changes to the current approved strategy and approve the updated Capital Strategy for 2024/25 to 2028/29, as set out in Appendix 2 to the report;
- iv. to approve the budget development framework, set out in Section 3.23 of the report, which would inform the development 2024/25 and future years' budget proposals; and
- v. to approve the proposed changes to the timescales set out in Standing Orders for the purposes of the budget development process and, as set out in Section 3.23 of the report, to delegate authority to the Chief Financial Officer and Monitoring Officer, in discussion with Political Group Leaders, to make any further changes necessary due to external factors.

4. CORPORATE RISK REGISTER

A report was submitted by the Executive Director for Place advising of the continued substantial levels of heightened risk.

The Team Manager for Emergency Planning and Risk, Scott Kennedy, presented the report, drawing attention to the current position regarding risk, noting that there were currently 7 Very High, 7 High, 6 Medium and 1 Low Risk. He referred to a new risk, relating to power outages, advising that a framework for this was under development. He also provided a summary of services where business continuity measures were in place.

The Provost asked about the sources of information relating to international pressures. Mr Kennedy advised that information was gathered from a number of sources, including the UK National Risk Register and the Global Risk Report produced by the WEF.

Councillor Bruce sought further information on the risks around power outages and the Space X Starlink Satellite system. Mr Kennedy advised that the two Starlink units had cost c.£5,000

and reported that one had already been used in a live situation. These devices could be used in the event of a power outage. He wasn't aware of existing national grants for such devices.

On the impact of business continuity plans being invoked by a number of services, Mr Kennedy undertook to provide further details to Members.

The Provost asked about the Council's External Auditor's role in the Council's Risk Register. Sarah Fortune, Executive Director for Council Resources, confirmed that the External Auditor reviewed the Council's internal controls as part of the audit process and that, in relation to their Annual Audit Report (due to be presented to the Audit & Governance Committee meeting on 19 December), it would state that the Council's internal controls are effective.

Noting that a building surveyor, who would be working on asset condition information, was now in place, Councillor McLeod asked if Members could have access to those reports. Tom Reid, Head of Infrastructure, advised that this project, which would look at all community buildings, would run until March, with data being analysed in April/May. A report would be prepared during the summer, which would be aligned to capital and revenue plans.

With reference to the housing, in particular the changes to the 'local connection' aspect, Councillor Forrest asked about the impact on the Council. Wendy McGuire, Head of Housing, reported that the costs associated with this were difficult to quantify because their systems did not allow for logging homeless presentations from other local authority areas. However, there had been an increase in homeless presentations, which had impacted on staff time and accommodation requirements and she expected this to continue. She hoped to have further information to share with Members in January.

Councillor Menzies asked questions relating to recruitment, and questioned if the Council was making it too difficult to fill vacancies. Mr Reid explained that for many posts in Facilities, statutory standards had to be met, and that there was an attempt to provide career structures. He also spoke about the need to be flexible to attract applicants. On the cost of PVG checks, Morag Ferguson, Head of Corporate Support, advised that staff were required to pay for these personally, but that the cost could be spread over several months.

Responding to a question from Councillor Dugdale on the risk matrix, Sharon Saunders, Head of Communities, pointed out that the 5 x 5 matrix was the standard model used across the risk marketplace and that she would not be minded to adjust it. Mr Kennedy offered to provide further contextual information on this and on risk appetite to Members.

Councillor Trotter asked if Members could be given updates on plans regarding flooding. Mr Reid advised that weekly inspections were carried out by the Roads Team, and that a business case was being developed to update digital information which would provide early warnings. He offered to discuss specific local issues with Councillor Trotter outwith the meeting.

With reference to the Very High risk for 'Managing the Financial Environment', Councillor Akhtar stressed the need for this matter to be raised at every opportunity with appropriate decision-makers. She welcomed the update on the proposed National Care Service, particularly that responsibility for providing social care services would remain with local authorities; however, clarity on some areas of the National Care Service Bill was required. On recent adverse weather, she paid tribute to the Head of Infrastructure and his staff for their response, but noted that it was important that all partner agencies played their part during such events.

Councillor Hampshire pointed out the breadth of services provided by the Council, as demonstrated in the Risk Register. He noted that the financial risks facing the Council were significant, and he looked forward to hearing the ideas of his Conservative colleagues regarding the Financial and Capital Strategies.

The Provost moved to the roll call vote on the recommendations which were approved unanimously.

Decision

The Council agreed to approve the Corporate Risk Register, and in doing so to approve that:

- i. the Corporate Risk Register would be maintained as a 'live' document which would be reviewed by the Council Management Team (CMT), the CMT sub-group on Risk Management, Service Management Teams (SMT), risk owners and the Corporate Risk Management Group on a regular basis and reported back to Council as and when required;
- ii. the relevant risks had been identified; and
- iii. the significance of each risk was appropriate to the current nature of the risk;
- iv. the total profile of corporate risk could be borne by the Council at this time in relation to the Council's appetite for risk but in the context of the planned mitigations; and
- v. although while the corporate risks require close monitoring and scrutiny over the next year, many are long-term risks for the Council that are likely to be a feature of the risk register over a number of years.

5. CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2022/23

A report was submitted by the Chief Social Work Officer presenting Chief Social Work Officer's Annual Report to Members.

The Chief Social Work Officer, Lindsey Byrne, presented the report, drawing attention to a number of key aspects, such as: the recruitment and retention of social work staff, ensuring sufficient resources to meet the needs of service users, the complexity of needs, and increased demand on services. She also highlighted the priorities for the service, including: attracting more foster and kinship carers, increasing capacity, improvements in early intervention and prevention, making use of community and universal supports, and strengthening governance. She stated the Council's commitment to providing high quality care for users of social work and social care services.

Councillor Menzies asked if there were any plans to support informal kinship carers. Ms Byrne accepted that improvements were needed to the support currently offered, and that she could provide further information to Members on this.

In response to questions from Councillor Jardine, Ms Byrne stressed the importance of hearing the views of service users to inform service improvements. However, she noted that some service users were hard to reach or less keen to engage. She offered to share response data with Members. She added that social work staff were keen to hear the views of people with experience of the care system, and that these views were used as part of the service planning process. She noted that social work staff were very motivated, despite working in challenging circumstances.

Councillor Dugdale raised a number of questions about staffing and fostering. Ms Byrne advised that the service now had a full complement of team leaders, and that staff morale was good. She encouraged Members to share fostering adverts via social media. By attracting local foster carers, children could remain within their own communities. Ms Byrne also explained, in relation to care at home for children and young people, that this area had been

challenging since the pandemic and that innovative methods to support children with disabilities had been adopted.

On working in partnership with the Third Sector, Ms Byrne pointed out that the Council already did this, but she was keen to review and improve these relationships, especially relating to services for children.

On the change of policy concerning community payback orders, Councillor Bruce asked if there had been any transfer of resources from the Prison Service to local authorities to address the increased workload. Ms Byrne explained that this policy change was focused on moving away from short-term prison sentences. The situation had been exacerbated by the COVID-19 backlog. She noted that Justice funding was ring-fenced and that she would need to look at this in the context of the move to community sentencing.

Councillor Hampshire asked if the number of referrals to social work services were relative to the increase in population, and he also sought an explanation on the numbers on the Child Protection Register. Ms Byrne advised that the numbers on the Child Protection Register fluctuated frequently and that the majority of referrals did not need to be included on the register. She added that increased early intervention and preventative work had made a big difference in this area. She would provide further detail on this at the forthcoming Members' briefing.

Councillor Akhtar asked for details on the transformation work being undertaken within the Social Work service. Ms Byrne advised that a service redesign meant that risk was being managed more effectively and that a better service was being provided to service users, e.g. through the creation of a dedicated kinship care and adoption team, and also a wellbeing and justice team to help support young people at risk of residential or secure care. She accepted that recruitment of staff had been difficult but that the service was now attracting high-quality applicants.

Councillor McFarlane welcomed the report, particular the multi-agency approach to helping children and young people.

Councillor Menzies commended Ms Byrne's approach to 'facing things head-on' and trying to reach those who were 'easy to ignore'.

Councillor McLeod spoke of the importance of working in partnership with the Third Sector, and he also made reference to a recent inspection of the Tranent Care Home, which had scored 'green' in all areas.

With reference to increasing demands on services and the growing population, Councillor Dugdale commended staff for their efforts to meet these challenges, especially those working in early intervention and prevention services, noting that the difference made to the lives of young people was significant.

Councillor Akhtar also spoke of the pressures on staff to meet increasing demand, pointing out that there had been an 11% increase in demand on adult wellbeing services. She praised the partnership working with Volunteer Centre East Lothian (VCEL) and welcomed the community-based preventative work undertaken. She paid tribute to the contribution of foster and kinship carers. She also believed that bringing Education and Children's Services together had made a positive difference.

Decision

The Council agreed to note the content of the 2022/23 Chief Social Work Officer's Annual Report and its implications for the provision of social work services in East Lothian and their role in assuring the safety and welfare of vulnerable children and adults across the county.

6. VOTING RIGHTS OF EXTERNAL REPRESENTATIVES ON THE EDUCATION AND CHILDREN'S SERVICES COMMITTEE

A report was submitted by the Executive Director for Council Resources seeking determination of the future voting rights of the external representatives (3 x religious representatives, 1 x trade union representative) on the Council's Education and Children's Services Committee, following a consultation on this matter.

Declaration of Interest: Having declared an interest, Councillor Yorkston left the meeting for the duration of this item.

Prior to the officer presentation, the Provost set out how the proposed voting arrangements for this item, namely that Members would be asked to vote on the future voting rights of the religious representatives and then on the future voting rights of the trade union representative. Councillor Gilbert questioned why the voting would be split. The Clerk advised that this reflected the questions in the consultation.

Councillor McGinn asked if Councillor Yorkston, having declared an interest as a branch representative for the EIS, would have to leave the meeting for the entire item. Morag Ferguson, Head of Corporate Support and Monitoring Officer, advised that, in accordance with the Councillors' Code of Conduct, if a Member declares an interest in an item of business they have to leave the meeting for the entire item.

Mrs Ferguson then went on to present the report, advising that although councils were required to appoint religious representatives to their education committees, and could appoint other external representatives, it was not a requirement to give those external representatives full voting rights. It had always been the Council's practice to allow external representatives to vote, but as part of the recent review of Standing Orders it had been agreed to consult with the public on this matter. She stated that the Council was not being asked to remove the external representatives from the Education and Children's Services Committee, but that it was only their voting rights that was being considered. She noted that a number of other local authorities had now removed voting rights of external representatives. She made reference to detailed information on the consultation which was available in the Members' Library, adding that she had only just been made aware that the Catholic Church had written to all Members on this matter.

In response to a question from Councillor Gilbert, Mrs Ferguson provided details of a number of councils who had taken action to remove voting rights from external representatives.

Councillor Bruce questioned the process regarding the appointment of the third religious representative, specifically why that representative was from the Scottish Episcopal Church. The Clerk advised that the third position had been advertised some years ago when it fallen vacant, and that no religious community at that time had put forward a representative. Subsequently, the Episcopal Church nominated a representative who was then appointed to the Committee.

Mrs Ferguson also clarified that since the addition of Children's Services to the Education Committee, the external representatives were only eligible to vote on matters relating to education.

Councillor Trotter indicated that he was uncomfortable with the proposed split on the voting on this item and proposed an amendment to combine the two recommendations, that is:

‘To determine if the voting rights of the external representatives on the Education and Children’s Services Committee should be retained or removed and, if removed, to agree the consequential amendment to the Scheme of Administration’.

Councillor Menzies seconded this amendment.

The Provost then moved to the debate.

Councillor Menzies opened the debate by highlighting the wealth of experience and backgrounds of those on the Education and Children’s Services Committee. She stressed that the Council was not debating the removal of the external representatives from the Committee, and that those representatives would continue to have a strong voice, with the ability to challenge and contribute to the work of the Committee, which she welcomed. However, as the external representatives were not elected by the public and not accountable to the public, she believed that to achieve democratic balance, they should not have voting rights. On the proposal to split the vote to allow Members to consider the religious representatives and trade union representative separately, she felt that this would look as though the Council was giving one group preference over another, which she was not comfortable with. She would therefore support Councillor Trotter’s amendment.

Councillor Hampshire reported that since 1996, the external representatives had served the Committee well, and that there had been no disagreements between the external representatives and the Councillor representatives. He questioned the value of their place on the Committee if they had no right to vote on matters under consideration. He held the view that removing their voting rights for no good reason was wrong, and he called on Member to support retaining their right to vote.

Speaking in support of Councillor Menzies’s comments, Councillor McGuire made reference to a number of community groups he attended without having voting rights, arguing that he could still put forward views and provide help where possible.

Councillor McIntosh assured Members that there was no proposal to remove voices from the Committee; indeed, she welcomed the participation of external representatives and believed that this could be extended to include young people. However, she was supportive of voting rights being restricted to democratically elected Members.

Councillor Bruce welcomed the contributions made by the external representatives on the Committee. With reference to the consultation responses, he noted that the majority were not in favour of external representatives having a vote. He agreed with other contributors that this matter was one of accountability and that the voting rights of external representatives should be removed.

Although not a current member of the Education and Children’s Services Committee, Councillor Forrest advised that he had found the contributions made by external representatives helpful and supportive, and therefore he would be voting to retain their voting rights.

Councillor Gilbert spoke of the importance of achieving a balance between elected and non-elected members of the Committee. He argued that Scottish society had changed significantly since religious representatives had been appointed to education committees in 1918, with 58% of Scots now indicating they did not follow a religion.

Councillor McGinn echoed the comments made by Councillor Hampshire, voicing his concern about removing the external representatives’ voting rights without good reason. He appreciated the contributions that had been made as part of the online consultation. His comments were shared by Councillor Akhtar, who confirmed that in her time as Convener of the Committee, no concerns had ever been raised about the external representatives.

Councillor Cassini acknowledged the contribution made to the work of the Committee by the external representatives, but felt that as they were unelected they should not be able to vote.

Councillor Collins voiced her concern that the removal of voting rights of religious representatives on education committees could affect the 'moral compass' of the committees.

The Provost concluded the debate by pointing out that the religious representatives were accountable within their own organisations and that they were also active within their communities. He valued their voices and that of the trade union representative. On balance, he felt that there was no need to change the composition of the Education and Children's Services Committee and that he would therefore vote to retain the status quo.

The Provost moved to the roll call vote on the amendment to combine Recommendations 2.1 and 2.2:

For (11): Councillors Allan, Bruce, Cassini, Findlay, Gilbert, Jardine, McGuire, McIntosh, McLeod, Menzies, Trotter
Against (10): Councillors Akhtar, Bennett, Collins, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McMillan, Ritchie
Abstain (0)

The Provost then moved to the roll call vote on the recommendations, as amended:

Retain voting rights (10): Councillors Akhtar, Bennett, Collins, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McMillan, Ritchie
Remove voting rights (11): Councillors Allan, Bruce, Cassini, Findlay, Gilbert, Jardine, McGuire, McIntosh, McLeod, Menzies, Trotter
Abstain (0)

Decision

The Council agreed to remove the voting rights of the three religious representatives and the trade union representative on the Education and Children's Services Committee, and to approve the consequential amendment to the Scheme of Administration.

Sederunt: Councillor Bruce left the meeting; Councillor Yorkston returned to the meeting.

7. RESPONSE TO BOUNDARY COMMISSION REVIEW

A report was submitted by the Executive Director for Council Resources seeking ratification of an alternative proposal for constituency alignment, submitted to the local inquiry held by the Boundary Commission for Scotland.

The Head of Corporate Support, Morag Ferguson, presented the report, reminding Members that at its meeting on 27 June, the Council had agreed to submit an objection to the proposals as they affected East Lothian. She advised that at that stage there had been no time to develop an alternative proposal as this would have affected neighbouring authorities, so the Council had submitted an objection to the proposals and requested more time to consider an alternative. Councillor Hampshire had then prepared an alternative proposal in collaboration with colleagues from neighbouring authorities. The Council was then informed that the local inquiry would be held in December. Mrs Ferguson advised that Councillor Hampshire had consulted with Group Leaders on the alternative proposal, the majority of whom were supportive of it. He had attended the local inquiry on 7 December and presented this as the Council's alternative proposal. She advised that if approved by the Council, she would confirm

that this alternative proposal represents the view of the Council; if not approved, she would report that this proposal was submitted on the basis that it would be ratified by the Council but was not approved.

Responding to a question from Councillor Forrest, Mrs Ferguson clarified that bullet point 2 of Section 3.3 of the report should read: 'Midlothian North and Musselburgh would include the areas of Midlothian that Boundaries Scotland was proposing to move into Midlothian South'.

Councillor Hampshire advised that he had discussed alternative proposals with the Leader of Midlothian Council, who was also unhappy with the Boundaries Scotland proposal. The alternative proposal would see Prestonpans remaining in East Lothian, East Edinburgh remaining within the City of Edinburgh, and Midlothian North and Musselburgh staying in Midlothian. He highlighted a number of issues that would result from the Boundaries Scotland proposal, including the number of council areas that MPs/MSPs would have to deal with and the number of MPs/MSPs that councils would have to deal with, which he felt would be unmanageable and would cause difficulties in having issues resolved. This aspect had been raised by Colin Beattie MSP during the local inquiry. He pointed out that under the alternative proposal the electorate figure would be at the higher end of the criteria, at 57,300. He hoped that the Sheriff would agree with the alternative proposal and recommend it to Boundaries Scotland.

Councillor McGuire stated that the Conservative Group agreed that the link between Prestonpans and Cockenzie/Port Seton should not be broken. However, he accepted that the status quo was not an option, given that there were 65,000 electors in East Lothian with population growth predicted to continue. He advised that the Conservative representative at the local inquiry had rejected the alternative proposal, and suggested instead that Tranent and Elphinstone could become part of the Midlothian North and Musselburgh constituency. He claimed that this proposal would result in a smaller East Lothian, but that it could accommodate the population growth at Blindwells. He called on Members to embrace change and build the best constituency possible within the range of electors criteria, requesting that Boundaries Scotland revise the proposals for East Lothian and consider the two alternative proposals, or to look at creating three constituencies within East Lothian and Midlothian and redrawing the Edinburgh boundary.

The Provost remarked that it would have been helpful to have Councillor McGuire's proposal at an earlier stage in order that it could be considered. However, it could not be considered at this stage given that the Council was being asked to consider the position already put forward at the local inquiry.

Councillor Gilbert observed that if the original proposal was to be implemented, Members in the Preston, Seton and Gosford ward would be dealing with 13 or 14 MPs/MSPs on a regular basis.

Councillor Menzies commented that the current situation in her ward, with so many politicians involved, was confusing for people and created barriers to democracy for vulnerable people.

Councillor McIntosh spoke in support of Councillor Hampshire's alternative proposal, noting that it was a sensible compromise.

Concluding the debate, Councillor Ritchie highlighted the importance of retaining local ties and community relationships and was supportive of the views of constituents who wished to remain within the East Lothian constituency.

The Provost moved to the roll call vote on the recommendations:

For (18): Councillors Akhtar, Allan, Bennett, Cassini, Dugdale, Forrest, Gilbert, Hampshire, Jardine, McFarlane, McGinn, McIntosh, McLeod, McMillan, Menzies, Ritchie, Trotter, Yorkston
Against (3): Councillors Collins, Findlay, McGuire
Abstentions (0)

Decision

The Council agreed:

- i. to note that the Boundary Commission for Scotland consultation on the proposed new Scottish Parliamentary Constituencies is ongoing and that a local inquiry session was held in Musselburgh on 7 December 2023; and
- ii. to ratify the alternative proposal for constituency alignment that was submitted to that local inquiry, as detailed in Section 3.3 of the report, noting that this could not be approved in advance as a consequence of the timing of the local inquiry.

8. SUBMISSIONS TO THE MEMBERS' LIBRARY SERVICE, 17 OCTOBER TO 26 NOVEMBER 2023

A report was submitted by the Executive Director for Council Resources noting the reports submitted to the Members' Library since the meeting of the Council in October 2023.

With reference to 113/23, Councillor Ritchie welcomed the progress made at Preston Lodge High School, noting that the S1 pupils were now returning to the campus. She thanked the Heads of Education and Infrastructure, and other officers involved, for their efforts to resolve the RAAC issues.

Decision

The Council agreed to note the reports submitted to the Members' Library Service between 17 October and 26 November 2023, as listed in Appendix 1 to the report.

Signed

Provost John McMillan
Convener of the Council