

Minutes of the Overview and Scrutiny Board

8 May 2024

-: Present :-

Councillor Steve Darling (Chairman)

Councillors Cowell, Fellows, Law, Long, Maddison, Strang, Tolchard and Twelves (Vice-Chair)

(Also in attendance: Councillors Bye, George Darling, Chris Lewis and David Thomas)

57. Apologies

Members observed a minute's silence as a mark of respect in memory of Councillor Patrick Joyce who was a member of the Overview and Scrutiny Board and had sadly passed away on 12 April 2024.

It was reported that, in accordance with the wishes of the Liberal Democrat Group and Conservative Group, the membership of the Board had been amended to include Councillors Maddison and Tolchard in place of the Liberal Democrat vacancy and Councillor Brook respectively.

58. Minutes

Subject to the deletion of the following sentence from paragraph 7 of minute 52, the minutes of the meeting of the Board held on 10 April 2024 were confirmed as a correct record and signed by the Chairman:

“Members acknowledged that the improved communication and engagement with Councillors and the community around the plans for the new Rifles Gardens demonstrated that improvements had been made.”

59. Annual Review of Key Performance Indicators for the Special Educational Needs and Disabilities (SEND) Local Area Strategy

The Board reviewed the submitted report and heard evidence from the Cabinet Member for Children's Services, Director of Children's Services, Head of Special Educational Needs and Disabilities (SEND), Divisional Director of Safeguarding, Deputy Director of Commissioning Out of Hospital NHS Devon and Play Torbay in respect on the annual review of the Key Performance Indicators for the SEND Local Area Strategy.

The Cabinet Member for Children's Services thanked the Scrutiny Lead for Children's Services for representing him at a recent review meeting in Bristol.

The Board asked a number of questions in relation to how dysfunctional services had been over a number of years; why more progress had not been made against the Written Statement of Action and five priority areas from the SEND Strategy, particularly around the 'becoming an adult' section; the lack of detail around performance; what was the joint vision for health, education and social care; if the graduated response was working, why was there an increase in exclusions, suspensions, absence rates and meetings with the Youth Justice Board for children with SEND; SEND was a national issue what conversations/lobbying was happening with the Government; were all Partners on the same page and supporting the direction of travel; what impact was there on children who were elected home educated or not attending school in terms of their education, social and emotional wellbeing; and have the reasons for elected home education been explored and what action was being taken to address parents' concerns.

It was highlighted that the vision was SEND was everyone's business and that partners (including the community and voluntary sector), Councillors, parents, Carers and young people all had an important role in making improvements to the support for all children and young people regardless of if they have SEND. The Local Area Partnership acknowledged that they had not made the progress they had wanted to in addressing the findings from the Inspection in November 2021 and the Written Statement of Action and would be inspected under a new framework in the next six months. It was likely that the Local Area Partnership would be judged between Outcome 2 and Outcome 3.

There had been difficulties bringing some Education System Leaders together on the journey due to the fragmented structure of the School System but that this was starting to improve with them joining some of the Priority Action Groups. Parents were saying that they get a different approach from one school to another and there needs to be more consistency across the whole education system. Roadshows were being held at schools to speak to parents, Carers and young people but it was highlighted that some of the schools had multiple entrances and that the Roadshows could be missing lots of people due to this. It was agreed that this would be reviewed to ensure engagement with as many people as possible. Support was being provided to schools to encourage them to take early intervention when children identified as having additional needs and early steps meetings were now being held before statutory assessment requests to review the support and appropriate action to be taken to support the child's needs. This was welcomed as previously parents thought the only way to be heard and get support for their children was through an Education and Health Care Plan.

Ongoing work was being undertaken with the Local Area, Local Government Association, Department for Education, Local Members of Parliament, Ofsted, and regional partners/colleagues to raise awareness of the issues impacting Torbay, which was also raised in Parliament in January as well as concerns over future funding and sustainability for the Family Hubs, as well as sharing good practice.

Members acknowledged the progress made against the five priority areas highlighted in the report, with small improvements being seen by some children, parents and Carers but that notable changes would take time to embed. More work was required at pace in order to embed cultural change and inclusion, consistency of practice and improved governance and commissioning.

The Board felt that more could be done to promote the work of the Family Hubs and the support available for families with children with additional needs.

Resolved (unanimously):

1. that the outcome of the work with the Local Government Association Advisors be reported to the Board in November together with an analysis of the 500 home elected young people to understand the reasons why and if there are any children missing from the list of home educated or attending school and what action is being taken to identify and support these young people and their families;
2. that the Director of Children's Services be requested to put together information to assist all Councillors to enable them to be encouraged to engage with schools in their areas including considering becoming school governors and to promote the SEND Strategy and work of the Family Hubs; and
3. that the Cabinet be recommended:
 1. to explore further support around transition and consistency around schools including early years to primary phase, as well as primary to secondary and secondary to further education;
 2. to work with the voluntary and community sector to see what support they can provide to children and young people with SEND to help hear the voice of the excluded and home educated young persons; and
 3. to continue to lobby Government on the long term sustainability and funding of the Family Hubs who provide vital support to children and their families.

60. Update on the Implementation of the Review of Planning Services Fit for the Future

The Board considered a report which provided an update on the Planning, Housing and Climate Emergency Service of the Future Project and the response to the Councillor Call for Action on Planning Enforcement. The Cabinet Member for Place Development and Economic Growth advised that the Council had tried to bring in additional staff but this had not resulted in reducing the backlog of Planning Enforcement cases (500 which had been impacted by Covid-19 and unable to be significantly reduced) and that the Director of Pride in Place was looking to find a solution looking at a system-wide approach and reviewing how the Council manages enforcements and complaints with a new Enforcement Policy and complaints form being developed which would prioritise the action being taken on enforcement cases.

Councillor George Darling provided a verbal update on his concerns around public perception and the lack of enforcement undermining the Planning Service. He raised concerns around capacity; comparisons to national data; failure to deal with the backlog of cases; how Torbay compared to Plymouth City Council on enforcement; and concern around a revised Enforcement Policy and new complaints form and if they would dilute the process. A statement was read out on behalf of Mr Carl Taylor which highlighted concerns and provided an example of an enforcement case and Mr Nigel Goodman (Maidencombe Residents Association) provided verbal evidence in respect of concerns around Planning Enforcement and the impact that lack of enforcement had on the community.

The Board asked a number of questions in relation to how the funding for Planning compared to other local authorities; how many enforcement cases had been reported in 2023 and 2024 and had resulted in issuing an Enforcement Notice; what was the rationale around the new Enforcement Policy and would that weaken or simplify the process; what improvements would be made and when will residents notice the impact of the work around enforcement; if a person phones up to say someone has cut down a tree with a Tree Preservation Order (TPO) on it how would that be dealt with under the new system; was the blocker a lack of capacity in the Enforcement Team or Legal Team; what action had been taken to address the five recommendations from the Board on 6 September 2023; were there any enforcement cases that were out of time to deal with that could be taken off the list; what was the reason that some of the green completed actions in the Improvement Plan were marked as yellow; how have service users been involved in the new Enforcement Policy; the data in the Improvement Plan was hard to read, what assurance could be given that the Planning Service had turned a corner; what was the baseline and benchmarking data from the start of the project; Planning was an area of great concern and interest from the public, what consideration had been given to creating a Continuous Improvement Board similar to the one for Children's Services; the lack of suitable data and benchmarking in the report; accessibility and relevant data on the Council's website; and a lot of focus was being put on high priority cases was there a risk that those in the middle would get missed through the prioritisation process.

Members were informed that the reason for the new Enforcement Policy and complaints form was to ensure that they were fit for purpose and reflected new legislation and policy, taking into account relevant prioritisation of resources and how and when we communicate with the public/applicants/agents etc. in order to make the best use of officer's time. This would look at the point of a complainant and help determine if and how to investigate and inform the most suitable pathway to an appropriate outcome. It would ensure a more place focussed approach and Planning Officers have visited areas such as The Strand and Debenhams to help understand their role in place shaping and redevelopment. Planning Officers were also working with other Teams e.g. Legal Services, Highways Team, the Tree Officer in SWISCo to ensure a co-ordinated approach to dealing with enforcement issues. Consultation was being carried out with the Agent's Forum and Neighbourhood Forum with the Council's Inclusion Officer involved in this work.

The Board was advised that a sustainable solution for enforcement needed to be put in place, starting with the new Enforcement Policy and complaints form in order to

determine the correct level and type of resource to address the backlog and manage new cases. Extra resource had been trialled and not worked and therefore this new approach was being developed to inform any future resource requests.

Members were advised of the consistent improvements across a range of performance indicators for the Planning, Housing and Climate Emergency Services over the last six months particularly around development management, but that they were not yet consistent enough to close the Project. This included a co-ordinated approach and one which was forward looking at issues based on data and quality of decision making. It was proposed that the Project would be closed in June and that the continued work and monitoring would be part of the business and normal for the service. The Director of Pride in Place gave assurance that it was appropriate for the Project to end in June as sufficient progress had been made against the objectives of the Project in order for performance to be monitored through the normal governance channels, including via Overview and Scrutiny, and regular meetings were held with the Director of Pride in Place and senior Planning Colleagues as well as with the Cabinet Member for Place Development and Economic Growth to ensure that they are aware of any issues and could instruct action as appropriate.

Members raised concern that there was no written data produced for the regular update meetings with officers and the Portfolio Holder and the Cabinet Member for Place Development and Economic Growth agreed to work closely with the Chairwoman of the Planning Committee to find a way to monitor Planning performance on a regular basis.

It was noted that a briefing would be provided to all Councillors in July on the Planning Service for the Future.

Resolved (unanimously):

1. that the Director of Pride in Place provide a written response to the Board on:
 - a. the mechanism requested at the meeting held on 6 September 2023 'to ensure that there is a suitable mechanism in place for case officers to update Ward Councillors on appropriate applications in their ward';
 - b. how many enforcements have been triggered in 2023 and 2024 and how many of them had been finalised;
 - c. how does the funding of Torbay Council's Planning Service compare to other similar local authorities and if we are average or higher;
 - d. what percentage of the Planning Budget is the £35,000 overspend;
2. that future reports to the Board include clear comparison data to help them understand how Torbay Council's performance compares against other similar local authorities;
3. that the Director of Pride in Place be recommended to review options to include relevant key performance data on the Council's website to help to provide

assurance to those who have an interest in planning as well as ensuring the information around CIL and Section 106 is updated;

4. that the Director of Pride in Place be requested to establish a target for enforcement cases so that this can be included in future performance reports to monitor delivery against; and
5. that an update on the conclusion of the Planning, Housing and Climate Emergency Service of the Future be presented a future meeting together with details of the new draft Enforcement Policy.

61. Review of Council Procurement Policies and Food and Music Festival

The Board received the report of the Review of Council Procurement Policies and Food and Music Festival Review Panel as set out in the submitted report.

Resolved (unanimously:)

1. that the report on the Review of Council Procurement Policies and Food and Music Festival be approved and submitted to the Cabinet on 11 June 2024;
2. that the revised Procurement Policies be presented to the main Overview and Scrutiny Board prior to their approval; and
3. that an update be given to all Councillors on the changes to Procurement once the new Legislation is in place.

Chairman