



Social Work and Health Policy Development and Scrutiny Panel

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

12 August 2022

A hybrid meeting of the **Social Work and Health Policy Development and Scrutiny Panel** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre, Livingston** on **Thursday 18 August 2022 at 2:00pm**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Declarations of Interest - Members must declare any interests they have in the items of business for consideration at the meeting, identifying the relevant agenda items and the nature of their interests.
3. Order of Business, including notice of urgent business and declarations of interest in any urgent business
4. Children And Young People: Roots Project:
 - (a) Report by Head of Social Policy (herewith)
 - (b) Mental Health and Wellbeing Services Presentation (herewith)
 - (c) Roots Partnership Presentation (herewith)
5. National Mental Health and Wellbeing Strategy Consultation Response - report by General Manager for Mental Health and Addictions Services (herewith)
6. 2021/22 Financial Performance - Month 12 Monitoring Report - report by Head of Finance and Property Services (herewith)

DATA LABEL: Public

7. Scottish Government Consultation - National Care Service (Scotland) Bill
- report by Depute Chief Executive (herewith)
8. Contributions Policy for Adult Non-Residential Social Care - report by
Head of Social Policy (herewith)
9. Performance Report - Quarterly Indicators - report by Head of Social
Policy (herewith)
10. Workplan (herewith)

NOTE **For further information please contact Karen McMahon on tel. no.
01506 281621 or email karen.mcmahon@westlothian.gov.uk**



CODE OF CONDUCT AND DECLARATIONS OF INTEREST (2021)

This form is a reminder and an aid. It is not a substitute for understanding the Code of Conduct and guidance.

Interests must be declared at the meeting, in public.

Look at every item of business and consider if there is a connection.

If you see a connection, decide if it amounts to an interest by applying the objective test.

The objective test is whether or not a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence your discussion or decision-making.

If the connection does not amount to an interest then you have nothing to declare and no reason to withdraw.

If the connection amounts to an interest, declare it as soon as possible and leave the meeting when the agenda item comes up.

When you declare an interest, identify the agenda item and give enough information so that the public understands what it is and why you are declaring it.

Even if the connection does not amount to an interest you can make a statement about it for the purposes of transparency.

More detailed information is on the next page.

Look at each item on the agenda, consider if there is a “connection”, take advice if necessary from appropriate officers in plenty of time. A connection is any link between the item of business and:-

- you
- a person you are associated with (e.g., employer, business partner, domestic partner, family member)
- a body or organisation you are associated with (e.g., outside body, community group, charity)

Anything in your Register of Interests is a connection unless one of the following exceptions applies.

A connection does not exist where:-

- you are a council tax payer, a rate payer, or a council house tenant, including at budget-setting meetings
- services delivered to the public are being considered, including at budget-setting meetings
- councillors’ remuneration, expenses, support services or pensions are being considered
- you are on an outside body through a council appointment or nomination unless it is for regulatory business or you have a personal conflict due to your connections, actions or legal obligations
- you hold a view in advance on a policy issue, have discussed that view, have expressed that view in public, or have asked for support for it

If you see a connection then you have to decide if it is an “interest” by applying the objective test. The objective test is whether or not a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence your discussion or decision-making.

If the connection amounts to an interest then:-

- declare the interest in enough detail that members of the public will understand what it is
- leave the meeting room (physical or online) when that item is being considered
- do not contact colleagues participating in the item of business

Even if decide your connection is not an interest you can voluntarily make a statement about it for the record and for the purposes of transparency.

The relevant documents are:-

- [Councillors’ Code of Conduct, part 5](#)
- [Standards Commission Guidance, paragraphs 129-166](#)
- [Advice note for councillors on how to declare interests](#)

If you require assistance, contact:-

- James Millar, Interim Monitoring Officer and Governance Manager, 01506 281613, james.millar@westlothian.gov.uk
- Carol Johnston, Chief Solicitor and Depute Monitoring Officer, 01506 281626, carol.johnston@westlothian.gov.uk
- Committee Services Team, 01506 281604, 01506 281621
committee.services@westlothian.gov.uk

January 2022

DATA LABEL: PUBLIC



SOCIAL WORK & HEALTH: POLICY DEVELOPMENT AND SCRUTINY PANEL

CHILDREN AND YOUNG PEOPLE: ROOTS PROJECT

REPORT BY: HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

To provide the panel with an overview of the mental health landscape in West Lothian for children, young people and families. Also, to provide information on the Roots Partnership offered within the mental health framework.

B. RECOMMENDATION

To note that there are a number of services and supports in place to support the mental health and wellbeing of our children and young people as part of core services within both Social Policy and Education and in collaboration with Third Sector partners.

To note that services are working together to ensure that the most appropriate mental health support is provided for children, young people and their families.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	None
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	
V	Relevance to Single Outcome Agreement	Our children have the best start in life and are ready to succeed.

		We live longer, healthier lives and have reduced health inequalities
<u>VI</u>	<u>Resources - (Financial, Staffing and Property)</u>	Ring-fenced funding (£511,000 - UPDATE) Community Young People's Mental Health and Wellbeing
<u>VII</u>	<u>Consideration at PDSP</u>	22/08/2022
VIII	Other consultations	Education / Health

D. TERMS OF REPORT

This report provides an overview of the current mental health supports in place for children, young people and their families within West Lothian Council. Over the last couple of years, the need for supports in this area has significantly increased both nationally and locally as a result of the impact of the pandemic.

Services have therefore adapted, amended and augmented supports in order to ensure a comprehensive range of need can be addressed. These supports are in place through core service delivery at universal level and extend to more targeted interventions when necessary and when considered through a staged intervention approach.

D.1 Background

The Scottish Government and COSLA commissioned a taskforce in 2018 with a focus on improving the mental health of our children, young people and families and following the pandemic they have also looked ahead to transition and recovery. The clear message from the Scottish Government was that respecting, protecting and fulfilling the rights of children, young people and families is crucial, and as we develop and deliver our mental health response to Covid-19, the voices and experiences of children, young people and their families will remain central. This will be both in terms of how we support good mental wellbeing, and how we provide the right help and support.

During the pandemic the Wellbeing Recovery Group (WRG) identified an increase in demand for mental health and wellbeing support for children, young people and their families. A waiting list was forming for children and families to receive support and it was agreed that a partnership of our third sector partners with the provision of a new model accessible, multi-agency support based on local need in West Lothian could help to manage the demand. The model would ensure there is 'no wrong door' for anyone seeking support.

A children and young people's mental health strategic needs assessment was carried out in June 2021 and it provided a clearer picture of what the needs of the families were in West Lothian.

In addition, the data collected from the Wellbeing Recovery Group referrals was evaluated. This along with the national drivers led to changes within the service provision and participation and engagement became a priority in West Lothian.

Following the implementation of the Community Young People's Mental Health and Wellbeing Support and Services Framework values and principles, and using our

learning from assessments and evaluations a new Public Social Partnership (PSP) of 11 partner agencies was formed called Roots with referrals being screened via the WRG.

D.2 Overview

The Roots model provides services that meet the expressed needs of children, young people and their families, the services are available when/where families need it, and are provided by people with the right knowledge, skills and experience. Through discussion with the families we have ensured the received support is embedded in the community either close to their home, education, or employment.

The “Roots” PSP, has been initially funded by the pandemic response grant and has provided eleven local third sector partners, alongside the council the opportunity to pilot a quicker more streamlined approach to mental health supports for families. Referrals to Roots are pre-screened and diverted at the point of referral to WRG. The model has been developed to expand the range of services available and will enable us to continually increase our understanding of the expressed mental wellbeing needs of families in West Lothian. The organisations involved have been creative in ensuring our families have been able to access support, using home visits, garden visits, meeting in community venues and offering a choice of services to families.

The partnership will provide direct support to children, young people and families to manage the increase in demand for emotional health and wellbeing support. Support will be provided through two open drop-in sessions at two different locations in West Lothian. Providing accessible easy to access support provides families with the support at the time they are seeking this and allows us to develop a relationship with the family and build an understanding of their needs and work towards agreeing the best ways to provide the supports available.

West Lothian identified their key priorities as:

- Support for children and families affected by autism.
- Support for children affected by domestic abuse.
- Attendance supports (Practical family support worker supports i.e. assisting getting children out to school etc)
- Nontalking therapies (art, music, play, ponies etc).
- Anxiety support and management – both children and their parents.
- Transgender supports.
- Support for young males to engage in services.
- Centre based / drop-in support for parents and children.

To compliment the implementation of the Roots model and building on the learning from this pilot we have in the 2nd year of the grant monies provided additional new initiatives which include;

- **Listen & Link**
 - We have recruited 5 Listen and Link Family Support Workers who manage a newly developed self-referral phone line for young people and their families. This service is provided to empower families in the management of their own wellbeing by providing a listening ear, signposting to appropriate services that meet their needs and providing further support where and if required.
 - Digital Support – in addition to our face to face and phone services. We have introduced digital support options for those who maybe do not want

to be directly in touch with someone. We will measure data to see if we are achieving the right balance between digital and non-digital service provision.

- Self directed support options are also being offered and piloted through this service.
- **Voice**
 - The Voice service is a 24/7 text message service for anyone to text if they are struggling for a variety of reasons with feelings of anxiety, loneliness or depression all the way through to self-harm or suicidal thoughts. The service is there 24/7 and the target is for those messaging to get a reply within 5 minutes of their text being received. Responders will work through their worries and signpost them to any resources and potential services which may be able to assist that individual's situation and circumstances, with the ultimate aim being to reduce the level of self-harm and suicide across the UK.
- **West Space**
 - West Space is mental health and wellbeing website which provides a support directory to help people find mental health and wellbeing support available within the area. West Space is not new in West Lothian, alongside our health and social care partnership partners the grant has allowed us to add children and young people's services to the website and commission an organisation to manage the website.
- **Access to Information**
 - Marketing of our services is on our development plan and how we measure which marketing has been most effective. We are still at the very early stages as our new mental wellbeing staff are only in post a short time and continuing to work on understanding how the route to a service are accessed and why.

D.3 Referral Process

Since April 2021 there has been a single online referral route available to any professional working with a child, young person and their families where it is felt there is a need for additional support. Self referrals are also accepted via this route. The single referral route has meant that families do not need to share their information multiple times with different agencies and has supported the reduction in the number of referral forms required to access different agencies.

D.4 Investment and Development

The Community Young People Mental Health and Wellbeing fund from the Scottish Government allowed us to setup a PSP model, engage in collaborative work with partners and work towards a different delivery model. The intention being the learning from the partnership will enable the identification of the specific skill set and mix of services/support required to create a robust Mental Health Service specific to the needs of West Lothian. The funding has also enabled the identification of training and improvements to our out of hours service provision for Mental Health and also improved access to information.

Based on the predicted levels of support required and experience within the WRG. The following internal staff were recruited:

- 1 Lead Officer
- 5 Family Support Workers (Listen & Link)

Available Funding for last year and this year to support this work has been £511,00

which is ringfenced for this work. We have had no confirmation of how long this funding will last which makes recruitment, retention and investment in any upscaling of the developments a challenge.

D.5 Evaluation

An evaluation of the Root's PSP is currently underway, ensuring engagement with internal and external partners as well as children, youth people and families who have accessed the service.

Interim results are expected in August with a report of the findings being available during September.

E. CONCLUSION

There are a number of supports and strategies in place to support children and young people and their families at both local and national levels. These range from universal approaches accessible to all through engagement with core services through to access to specialist advice and support from specific service providers.

All services who support children and young people with supporting positive mental health have had to adapt and amend services to meet changing profiles and increased levels of need in response to the pandemic.

Within West Lothian, this has been achieved through careful analysis of data, effective use of specific funding and a commitment to working jointly across agencies to ensure most effective and efficient methods of support.

F. BACKGROUND REFERENCES

[Children and Young People's Mental Health Task Force: recommendations - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/01/Children_and_Young_People's_Mental_Health_Task_Force_recommendations.pdf)

[Scottish Government CYPMH Report January - June 2022.docx](#)

Appendices/Attachments:

None

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Tel No. 07833 482847

Jo MacPherson, Head of Social Policy

Mental Health and Wellbeing Services

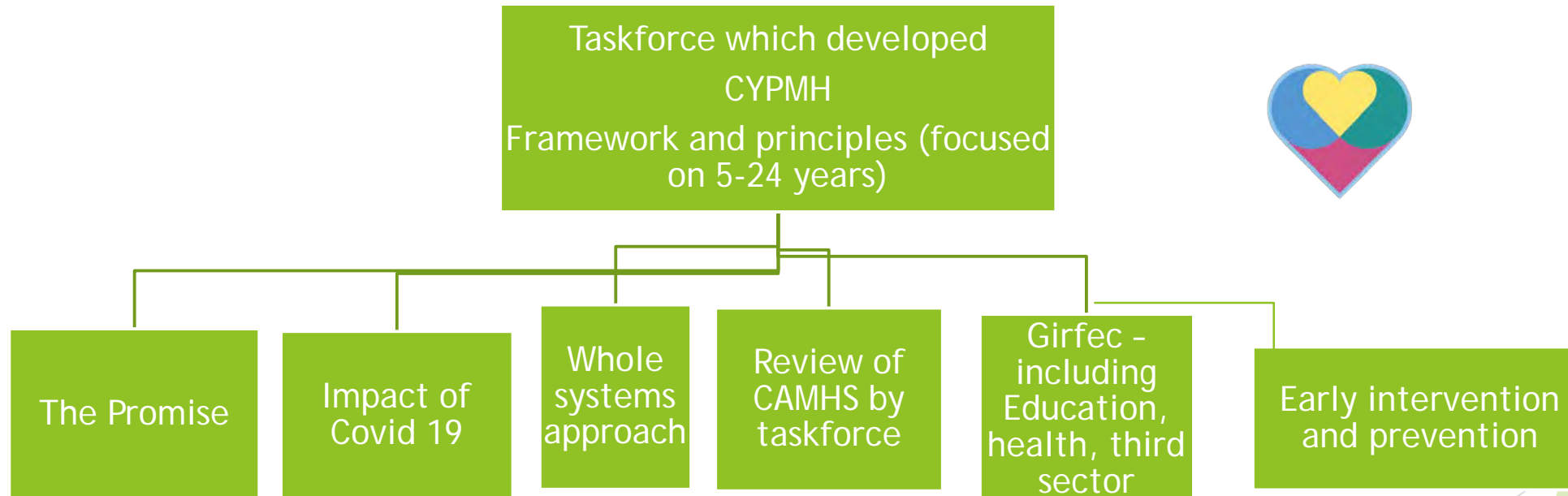


Children and Young People Mental Health Framework

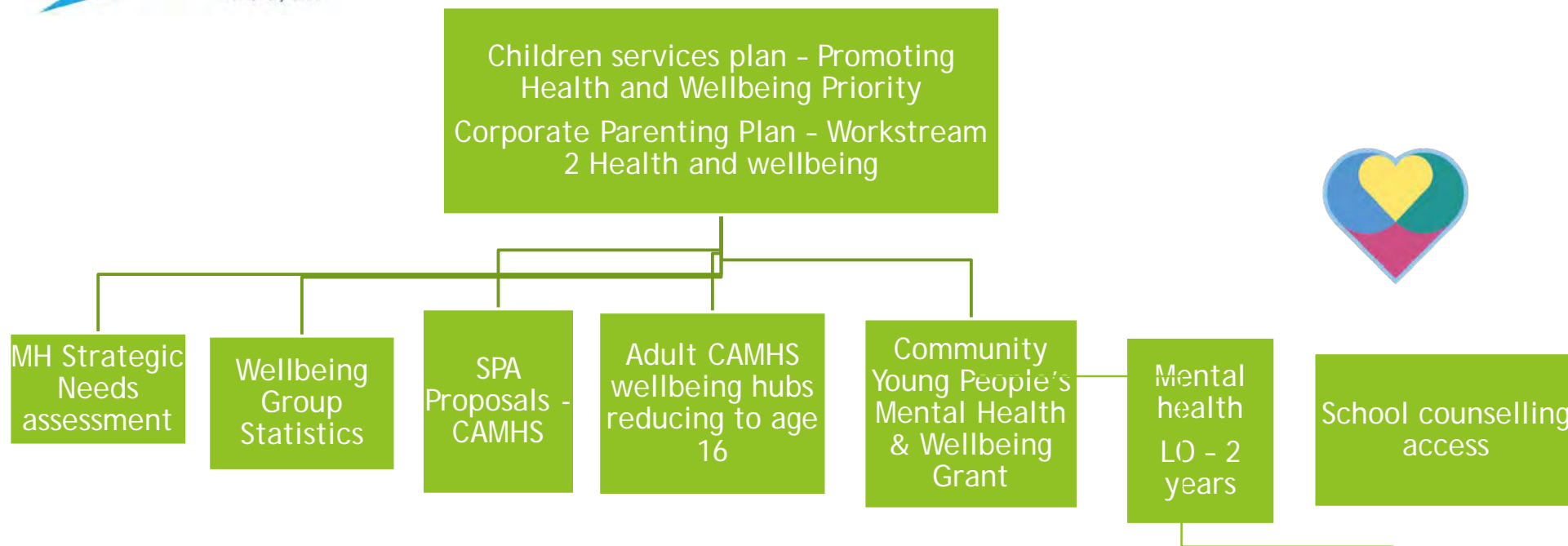
- ▶ The Children and Young People's Mental Health Taskforce was jointly commissioned by the Scottish Government and Cosla in June 2018.
- ▶ The aim of the Taskforce was that children, young people, their families and carers should know that they are supported in good mental health and will be able to access services which are local, responsive and delivered by people with the right skills.
- ▶ The recommendations gave us the opportunity to take a critical eye over our systems, supports and services in West Lothian at a time when the Community Young People's Supports & Services Framework would be implemented.
- ▶ Children and Young People's Mental Health Task Force: recommendations - gov.scot (www.gov.scot)



National Drivers for change to mental health and wellbeing services



Local Drivers – West Lothian





West Lothian Picture

- Social Policy/Education provide services Tier 2 and below
- Stronger awareness required of services and referral pathways
- CAMHS provide Tier 3 and above so cohort of young people falling between Tier 2 and Tier 3 with resources not meeting their needs
- Significant demands being placed on WRG (Wellbeing Recovery Group)
- Voice of the family/young person not heard in the process and repeated sharing of their story
- 30% of referrals to CAMHS being rejected/being inappropriate
- Unscheduled presentations to A&E a concern
- Workforce feeling a lack of knowledge/skills and training
- Work required around transition from children's to adults services
- Mental health impacting on children/Young people in managing their education
- More service provision required for those with ASD diagnosis
- Could be a Significant wait for a CAMHS service what happened in the interim

Response and Developments

Wellbeing Recovery Group (WRG)
- meets fortnightly and provides
direct support to families

Referral pathways
strengthened
Professional – through
Inclusion and support service
(ISS)
Self referrals – through L&L

Roots Public Social
Partnership
– referrals received through
ISS & L&L

School Counselling Access

ASD network - collaborative
pilot being explored between
education and CAMHS and
social work

DASAT -funding for sexual violence
children's worker

Training - Roll out of
National trauma
training programme

Discussions - with CAMHS
around primary care
development and well being
hubs and future work

Response and Developments

VOICE -

Shout service it is a 24/7 text message service for anybody to text when they may be struggling with anxiety, loneliness or depression through to self-harm or suicidal thoughts.

Text VOICE to 85258

LISTEN & LINK - new self-referral phone line for **young people, parents or carers**. The Listen & Link staff will LISTEN to their concerns, offer short term direct support and suggest possible **LINKs** with people services or resources that may be a support to the young person or their families. They will refer onto Roots and WRG and there are 2 dedicated ASD workers

Mentalhealthsupports@westlothian.gov.uk

West Space -

Signposting to all mental wellbeing services for children & young people on their website.

Roots Public Social Partnership

– referrals received through ISS & L&L

SDS - Pilot of self directed support therapeutic input through L&L service

Inclusion and Support Service (ISS) Delivery Model

- One team with specialist knowledge and expertise on early intervention and support
- One single referral pathway to replace multiple access routes into individual services
- Continues the multi-agency approach established August 2020, one screening group with wide representation from other services and agencies
- Family Assessment and Support Service (FASS) provides multi-agency approach for children and families, pre-birth to early years
- Enables an efficient and equitable process across West Lothian to ensure that the right service is allocated to the right child and family at the right time

ISS Social Policy

- ISS Social Policy is made up of CYPT and Sure Start Outreach Teams and Offers:
 - Outreach family support from pre-birth through all school-age stages
 - Parenting Groupwork Programmes (Triple P, Mellow Parenting, Parenting Teenagers Programme)
 - Sleep clinic and parental mental health and wellbeing group as well as mental health awareness group for parents.
 - Counselling for children and young people
 - 1:1 mental wellbeing support for children and young people
 - school attendance support
 - Vulnerable pregnancy service

NEXT STEPS

- Launch of a Mental Health Oversight Group (30/8/22)
- Increased participation of young people and families
- Ongoing work on the Single Point of Access (SPA) proposal
- Continued work with ASD network exploration
- Collation of Listen and Link Data
- Roots PSP Evaluation and confirmation of ongoing funding
- Development of further training for the workforce
- Evaluation of all of year one mental health provision
- Involvement in self directed support board to develop procedures/processes
- Ongoing work on transitions and linking with adult mental health services.
- Reporting to Scottish Government



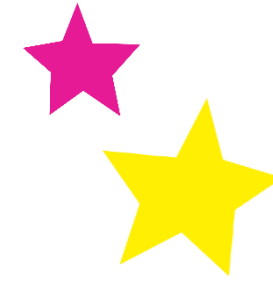


Roots Parntership



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Roots Partnership



Challenges we sought to address

Increasing number of requests for support in relation to children and young peoples mental health and wellbeing support.

Children, young people and their families requiring support often had support identified but were facing significant waits to access that support.

A broad range of support needs that could be met by one partner

Lack of choice and understanding for children young people and families for what support best met their needs.

Accessible and readily available support at times that suits families.



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Third Sector Response



- To build a partnership with a variety of expertise that can provide a wide variety of supports
- Adopt a 'no wrong door' approach
- Develop open sessions that create choice, flexibility and availability for families accessing our Service
- Provide an opportunity to connect and build relationships with children young people and families, that maintains capacity to engage with families
- Build an understanding of families needs before offering a service or solutions.



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Our Approach

- Building positive connections with children, young people and their families
- Listening to each family's story to understand their difficulties and challenges and what has brought them to receive support.
- Using a strengths-based approach to nurture the strengths and skills that exist within the family
- Offering a variety of supports from low level to intensive, short term to long term tailored on the needs of each individual family
- Supporting parents to develop the skills and confidence they need to fully care for their children including helping them to understand their child's emotional needs
- Supporting parents to reflect on their own experience of growing up and relationships to address the more complex emotional needs which can impact on their children's health and development
- Supporting the development of positive supportive relationships within the family
- Challenging families respectfully, highlighting children's wellbeing and safety at all times
- Collaborating with key partners to strengthen family networks
- Ensuring a positive move-on from the service, where outcomes are sustained



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Partnership

Family & Community Development West Lothian

Safe Families

Carers of West Lothian

Signpost

Wellbeing Scotland

Action for Children

Circle

Children 1st

WLDAS

Firefly

Youth Action Project



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Links with West Lothian

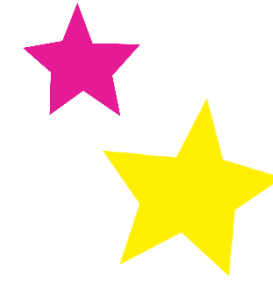


- Inclusion Support
- Wellbeing Recovery
- Listen and Links
- Governance Group led by Social Policy and Education Joint Project Lead
- Lead Officer for Mental Health Development
- Wider Partnerships
 - Building stronger links with the Team Around the Child and their Family
 - Explore opportunities to develop partnerships with others who could also connect with families in this way



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Key learning and Benefits



Reducing the number of times a family tells their story

Flexibility and availability for families

The importance of our open sessions

Taking the time to engage with families

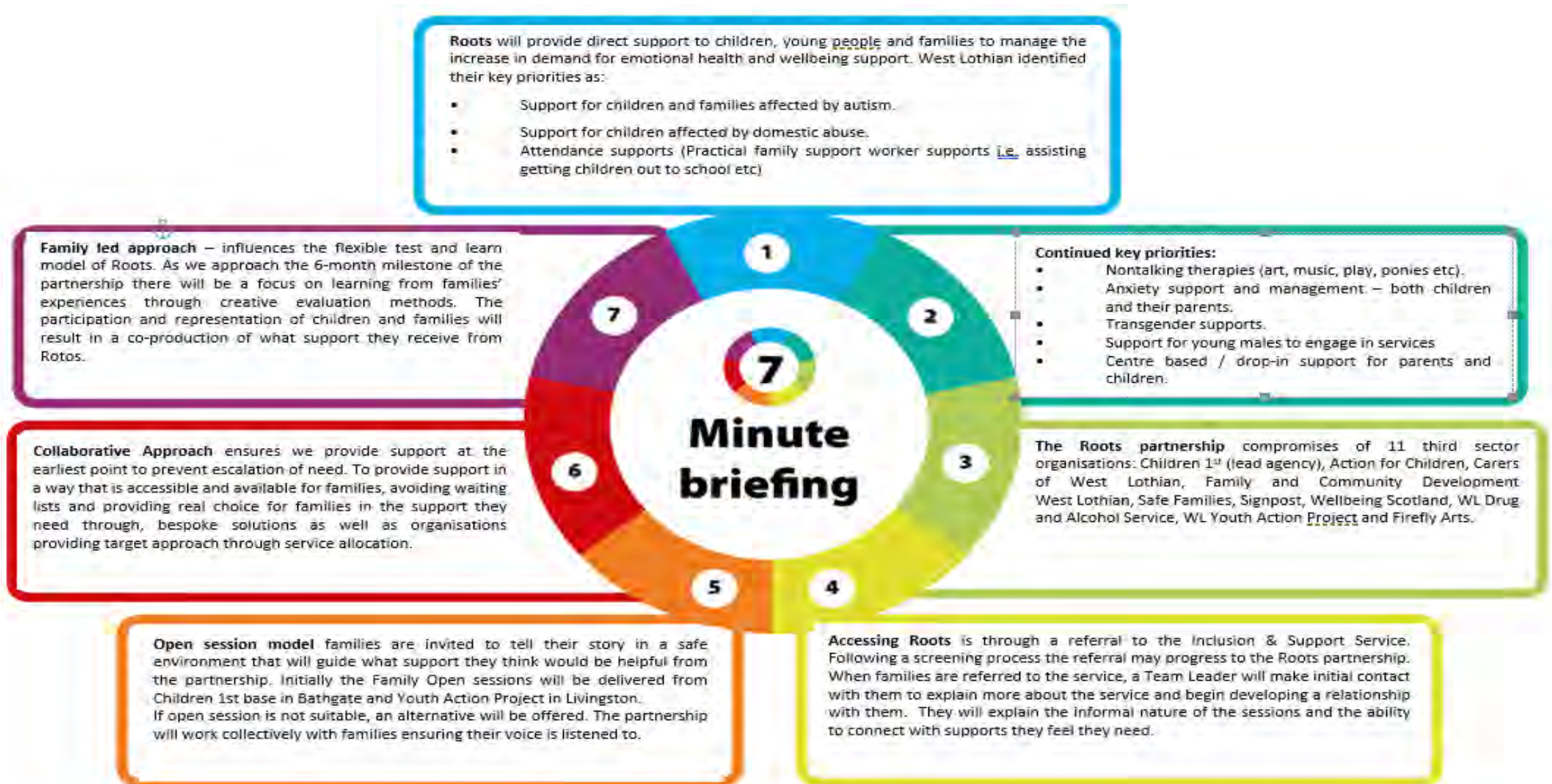
The choice available to families

Meeting identified needs



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Roots Mental Health and Wellbeing Partnership



Meet the Partners

- **Family & Community Development West Lothian** - Promoting positive physical and mental wellbeing through the power of play and positive relationships. This would involve individualised family led support packages that include direct family support, group sessions and/or children's play activities'. [FCDWL | - Website coming soon](#)
- **Safe Families** - Offers support to families who need some extra support. Through befriending, short term hosting and resources, Safe Families seeks to offer hope and connection to parents, young people and children. Safe Families has experienced and trained staff who work in partnership with approved and trained volunteers who offer relationship and connection to families who want to access support. Safe Families offers support for 6-9 months initially, but this can be extended depending on the needs of the family. [Support. Hope. Belonging. - Safe Families](#)
- **Carers of West Lothian** - Whole family support for young carers and their families to raise their mental health and wellbeing. [About CoWL - Carers West Lothian \(carers-westlothian.com\)](#)
- **Signpost** - supports families of children & young people with additional support needs and disabilities in West Lothian, with both practical information and emotional support, so that they can make the most of life. [Signpost \(signpost-online.co.uk\)](#)
- **Wellbeing Scotland** - Providing a range of one-to-one therapies to support the wellbeing of children and young people. [Contact \(wellbeingscotland.org\)](#)
- **Action for Children** - promotes the emotional well-being of children/young people and their families, through support and guidance. This will include creating or supporting personal plans that combine direct delivery, on-line tools and using integrated support services. Additionally, we deliver specialist interventions with children, young people or families on a 1:1 basis, group or community setting. [Find your local services | Action For Children](#)



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

Meet the Partners

- **Circle** - For all children to be safe, healthy, nurtured and happy within a stable family, which supports them to achieve their potential...and our purpose: To improve the lives of children by strengthening families. [Circle's West Lothian Project Update - Circle Scotland](#)
- **Children 1st** - offer holistic, therapeutic support to children, young people and their families by working with the family as a whole. Including families in the plan for the recovery of their child recognising families are best placed to find their own solutions to difficulties and harnessing strengths to promote sustainable change. [Scotland's National Children's Charity | Children 1st](#)
- **WLDAS** - provides specialist bereavement counselling and support to young people aged 12-18years in West Lothian who have lost a family member or significant person in their life. 1:1 support can help young people who are finding it particularly difficult to navigate their way through the grieving process and aims to build confidence and resilience using an individualised approach to each young person's experience. [WLDAS | Home](#)
- **Firefly** - Firefly provide drama, arts and media workshops to build young people's confidence and self-esteem, reduce stress and anxiety, and encourage positive behaviours and decision-making. [Firefly Arts – Enriching Young Lives \(firefly-arts.co.uk\)](#)
- **Youth Action Project** is well placed to support those families with older teenagers who require support individually to improve their mental health. In addition, the service will provide a mechanism for parents or carers to join in supported activities where appropriate in environmental work, cycling & bike maintenance, cooking, music, joinery and discussions enabling relationships to be rebuilt and encourage them to work together in informal nontalking sessions. Also if needs are identified YAP can provide activities based around issues of gender and identity. [West Lothian Youth Action Project, Youth Club, Livingston \(wlyap.org.uk\)](#)



SCOTLAND'S NATIONAL CHILDREN'S CHARITY



SCOTLAND'S NATIONAL CHILDREN'S CHARITY

DATA LABEL: PUBLIC



SOCIAL WORK & HEALTH POLICY DEVELOPMENT AND SCRUTINY PANEL

NATIONAL MENTAL HEALTH AND WELLBEING STRATEGY CONSULTATION RESPONSE

REPORT BY GENERAL MANAGER FOR MENTAL HEALTH AND ADDICTIONS SERVICES

A. PURPOSE OF REPORT

The purpose of the report is to provide the draft response to the National Mental Health and Wellbeing Strategy and invite comment and discussion on the content of the response before progressing the response to the Council Executive on the 6th of September for approval to submit in line with the Scottish Government deadline of the 9th of September 2022.

B. RECOMMENDATION

- Note contents of the report
- Provide comment on the content of the draft response.

C. SUMMARY OF IMPLICATIONS

I	Council Values	<ul style="list-style-type: none"> • Focusing on our customers' needs • Being honest, open and accountable • Providing equality of opportunity • Developing employees • Making best use of resources • Working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<ul style="list-style-type: none"> • Scottish Government Mental Health Strategy 2017-2027 • West Lothian IJB Strategic Plan 2019-2023 • Adults with Incapacity (Scotland) (Act) 2002 • Mental Health (Care and Treatment) (Scotland) Act 2003.
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	<p>We live in resilient, cohesive and safe communities</p> <p>People most at risk are protected and supported to achieve improved life chances</p> <p>We live longer, healthier lives and have reduced health inequalities</p>

VI	Resources - (Financial, Staffing and Property)	N/A
VII	Consideration at PDSP	N/A
VIII	Other consultations	N/A

D. TERMS OF REPORT

D.1 BACKGROUND

On the 30th of March 2017 the Scottish Government published their ten year national Mental Health strategy. The Mental Health Strategy 2017-2027 outlines the key outcomes, aims and actions the Scottish Government would take to improve mental health across Scotland.

Due to the COVID-19 pandemic the Scottish Government have accelerated their work to refresh the existing strategy, ensuring a more holistic approach is taken to Mental Health, placing greater focus on managing Mental Wellbeing.

On the 29th of June 2022 the Scottish Government launched their national consultation, seeking views on the direction of the new strategy. They have stated they want to ensure the new strategy has greater focus on every part of one's mental health and wellbeing. This covers a range of topics, including:

- Addressing the underlying reasons behind poor mental health;
- Helping to create conditions for people to thrive;
- Challenging the stigma around mental health, and;

The HSCP has developed a response to the consultation which is included in Appendix 1.

D.2 WEST LOTHIAN CONSULTATION RESPONSE

- D.2.1** The draft response provides clarity on where the HSCP wish to see the Scottish Governments direction taken in relation to a national approach to mental health and wellbeing support and services. Input has been provided by the Mental Health Management team alongside specialist support officers within the HSCP, covering areas such as Children and Young people's Mental Health and Trauma informed practice.
- D.2.2** The draft response ensures there is a whole system approach taken to support and service delivery, which emphasises partnership working to best meet the personal, social and health related outcomes of those we support. Note the strategy has been developed to support citizens of all ages across Scotland.
- D.2.3** There is also emphasis given to the need to greater support at the early intervention and prevention stage, however ensuring that care and treatment delivered within a secondary care setting for people living with a mental illness is best protected.

- D.2.4** The draft response was shared with the IJB Strategic Planning Group (SPG) on the 21st of July. Comments and discussion were noted and the response alongside further engagement with key stakeholders has been reflected within the response.
- D.2.5** The draft response will also be presented at the IJB on the 17th of August to seek approval to submit in relation to the input from services that are delegated to the IJB. This input is most notably reflected in the sections relating to those over 18 years old in relation to mental health services, however as the National strategy is ageless in its approach the input provided is reflected throughout the response.

E. CONCLUSION

On the 30th of March 2017 the Scottish Government published their ten-year national Mental Health strategy. The Mental Health Strategy 2017-2027 outlines the key outcomes, aims and actions the Scottish Government would take to improve mental health across Scotland.

On the 29th of June 2022 the Scottish Government launched their national consultation, seeking views on the direction of the new strategy. The HSCP would welcome comments and discussion from the Health and Social Work PDSP members regarding the draft response in appendix 1. These comments will be addressed before progressing the response to the Council Executive on the 6th of September for approval to submit in line with the Scottish Government deadline of the 9th of September 2022.

F. BACKGROUND REFERENCES

None

Appendices/Attachments:

Appendix 1: Draft HSCP Mental Health and Wellbeing Consultation response

Contact Person: Mike Reid, General Manager – Mental Health and Addictions Services
West Lothian HSCP

Email: mike.reid@nhslothian.scot.nhs.uk

Date: 18 August 2022

Mental Health and Wellbeing Strategy Consultation



Scottish Government
Riaghaltas na h-Alba
gov.scot

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- ☐ Individual
☒ Organisation

Full name or organisation's name

West Lothian Health and Social Care Partnership

Phone number

N/A

Address

West Lothian Civic Centre, Howden South Road, Livingston, West Lothian.

Postcode

EH54 6FF

Email Address

Mike.Reid@nhslothian.scot.nhs.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☒ Publish response with name
☐ Publish response only (without name)
☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- ☒ Yes
☐ No

We are aware of inequalities that exist in the prevalence of mental health issues and access to support and services, and we know that these have been made worse by COVID-19 (coronavirus).

We are asking the questions below as we want to better understand those inequalities. Your responses will help us build a clear picture of inequality in mental health provision and consider how we can address these inequalities through our new strategy.

What was your age on your last birthday?

N/A

Do you have a physical or mental health condition or illness lasting or expected to last 12 months or more? Please tick one

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>

If you answered 'Yes' to the above question, does this condition or illness affect you in any of the following areas? Please tick all that apply.

Vision (for example blindness or partial sight)	<input type="checkbox"/>
Hearing (for example deafness or partial hearing)	<input type="checkbox"/>
Mobility (for example walking short distances or climbing stairs)	<input type="checkbox"/>
Dexterity (for example lifting or carrying objects, using a keyboard)	<input type="checkbox"/>
Learning or understanding or concentrating	<input type="checkbox"/>
Memory	<input type="checkbox"/>
Mental health	<input type="checkbox"/>
Stamina or breathing or fatigue	<input type="checkbox"/>
Socially or behaviourally (for example associated with autism, attention deficit disorder or Asperger's syndrome)	<input type="checkbox"/>
Other (please write in below)	<input type="checkbox"/>
None of the above	<input type="checkbox"/>

If you selected 'Other', please write your response here:

N/A

If you answered 'Yes' to the above question, does your condition or illness reduce your ability to carry-out day-to-day activities? Please tick one

Yes, a little	<input type="checkbox"/>
Yes, a lot	<input type="checkbox"/>
Not at all	<input type="checkbox"/>

What is your sex?

If you are considering how to answer, use the sex recorded on one of your legal documents such as a birth certificate, Gender Recognition Certificate, or passport. Please tick one

Female	<input type="checkbox"/>
Male	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>

Do you consider yourself to be trans, or have a trans history? Please tick one

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>

If you would like to, please describe your trans status in the box (for example, non-binary, trans man, trans woman)

N/A

Which of these options best describes how you think of yourself?

Heterosexual/Straight	<input type="checkbox"/>
Gay/Lesbian	<input type="checkbox"/>
Bisexual	<input type="checkbox"/>
Other (please write in below)	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>

If you selected 'Other', please write your response here:

N/A

What religion, religious denomination or body do you belong to?

None	<input type="checkbox"/>
Church of Scotland	<input type="checkbox"/>
Roman Catholic	<input type="checkbox"/>
Other Christian	<input type="checkbox"/>
Muslim	<input type="checkbox"/>
Buddhist	<input type="checkbox"/>
Sikh	<input type="checkbox"/>
Jewish	<input type="checkbox"/>
Hindu	<input type="checkbox"/>
Pagan	<input type="checkbox"/>
Another religions (please write in below)	<input type="checkbox"/>

If you selected 'Other', please write your response here:

N/A

QUESTIONS – PART 1

DEFINITIONS

In this consultation, we talk about “mental health”, “mental wellbeing”, “mental health conditions” and “mental illness”. We have explained below what we mean by each of those terms. We want to know if you think we have described these in the right way, or if we should make changes to how we are describing them.

Mental Health

Everyone has mental health. This is how we think and feel about ourselves and the world around us, and can change at different stages of our lives. Our mental health is affected, both positively and negatively, by lots of factors, such as our own life circumstances, our environment, our relationships with others, and our past experiences, plus our genetic make-up. Being mentally healthy is about having good mental health, as well as addressing mental health problems. Having good mental health means we can realise our full potential, feel safe and secure, and thrive in everyday life as well as to cope with life’s challenges.

- **1.1** Do you agree with this description of mental health? **YES.**
- **1.2** If you answered no, what would you change about this description and why?

We agree with the definition of mental health, but suggest a definition of mental distress may be useful here. This is a term used widely and discriminates between people who have a diagnosed mental illness and those, experiencing mental distress, who are experiencing a crisis in their mental wellbeing, perhaps as a result of a recent life event. Both may be at risk of harm to themselves, but the management of these conditions will likely need to differ, with a healthcare environment being most suitable for the person with acute mental illness, but often unhelpful to the person in mental distress.

Mental wellbeing

Mental wellbeing affects, and is affected by, mental health. It includes subjective wellbeing (such as life satisfaction) and psychological wellbeing (such as our sense of purpose in life, our sense of belonging, and our positive relationships with others). We can look after our mental wellbeing in the same way as we do our mental health – and having good mental wellbeing can stop our mental health getting worse. The Royal College of Psychiatrists defines wellbeing as: ‘A positive state of mind and body, feeling safe and able to cope, with a sense of connection with people, communities and the wider environment’.

- **1.3** Do you agree with this description of mental wellbeing? **YES**
- **1.4** If you answered no, what would you change about this description and why?

N/A

Mental health conditions and mental illness

Mental health conditions are where the criteria has been met for a clinical diagnosis of mental illness. This means that a diagnosis of a mental illness has been given by a professional. Mental health conditions can greatly impact day to day life, and can be potentially enduring. These include depression, generalised anxiety disorder (GAD), panic disorder, phobias, social anxiety disorder, obsessive-compulsive disorder (OCD) and post-traumatic stress disorder (PTSD), as well as bipolar disorder, schizophrenia, and other psychosis, among many more. How mental illness affects someone can change from day to day. The professional treatment and support that each individual needs can change too.

Someone may have an acute mental health problem or mental health condition that has not yet been diagnosed, but they can still be unwell. Their diagnosis may also change over time.

- **1.5** Do you agree with this description of mental conditions and mental illness?
No.
- **1.6** If you answered no, what would you change about this description and why?

Re phrasing the following:

“This means that a diagnosis of a mental illness has been given by a professional”.

To

“This means that a clinical diagnosis of a mental illness has been given by an appropriately trained professional”.

QUESTIONS - PART 2

MENTAL HEALTH AND WELLBEING STRATEGY – OUR DRAFT VISION AND OUTCOMES

2. Our Overall Vision

- **2.1** On page 5 we have identified a draft vision for the Mental Health and Wellbeing Strategy: 'Better mental health and wellbeing for all'. Do you agree with the proposed vision? **YES**
- **2.2** If not, what do you think the vision should be?

N/A

- **2.3** If we achieve our vision, what do you think success would look like?

To achieve the vision of the Mental Health and Wellbeing strategy outlined above, we would anticipate the following:

- widespread awareness of the concepts of mental health, mental wellbeing and mental illness and the differences between the concepts
- institutions and communities built with mental wellbeing in mind and role-modelled by all public services and government
- local communities supported by universal services working together in partnership to address factors that support mental wellbeing and reduce mental distress
- people supported at home or as close to home as possible through their own self-management or through the support of people around them including institutions such as schools, colleges or workplaces
- well established multi-channel routes to support for mental distress, including easy access to high quality aids to self-management, and both online and telephone accessible routes to managing distress
- that carers receive support that they recognise as effective to maintain their own wellbeing
- well established local approaches to address increased mental distress in a crisis where it exceeds the capacity of individuals families or communities to manage
- good accessible gatekeeping and navigation into mental health services where somebody is or may be suffering from a mental health condition
- adequately and consistently funded and staffed mental health services with realistic but achievable response times and clear access to good quality assessment and care, support or treatment

And that services will

- always follow a human rights approach
- have peers or people with lived experience of mental illness as part of the service
- promote choice to support the needs of the person
- be realistic in what they can offer and support wise choices
- provide a seamless care as possible even where different teams or professions are involved in providing the service
- have a learning culture that identifies what works and put it into practise and stops doing what doesn't work

3. Our Key Areas of Focus

- **3.1** On page 5, we have identified four key areas that we think we need to focus on. Do you agree with these four areas? **Yes (4 key areas are on p7)**

- **3.2** If not, what else do you think we should concentrate on as a key area of focus?

4. Outcomes

- **4.1** Below are the outcomes that people have said they would like this refreshed mental health and wellbeing strategy to achieve. Some of these describe how things might be better for individuals, some for communities, and some for the whole population of Scotland. Do you agree that the Mental Health and Wellbeing strategy should aim to achieve the following outcomes for people and communities?

1. Strongly agree	2. Agree	3. Neutral	4. Disagree	5. Strongly disagree
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This will help us to understand what is most important to people and think about what our priorities should be. **Please indicate your selection with a tick under the corresponding number:**

Addressing the underlying social factors	1	2	3	4	5
Through actions across policy areas, we will have influenced the social factors that affect mental health and wellbeing, to improve people's lives and reduce inequalities					
Through, for example:					
• Improved cross-policy awareness and understanding of the social determinants of mental health and wellbeing, and how to address them	X				
• Cross-policy action works to create the conditions in which more people have the material and social resources to enable them to sustain good mental health and wellbeing throughout their lives	X				
• Policy implementation and service delivery that supports prevention and early intervention for good public mental health and wellbeing across the life-course	X				

Individuals	1	2	3	4	5
People have a shared language and understanding of mental health and wellbeing and mental health conditions	X				
People understand the things that can affect their own and other's mental health and wellbeing, including the importance of tolerance and compassion	X				
People recognise that it is natural for everyday setbacks and challenging life events to affect how they feel	X				
People know what they can do to look after their own and other's mental health and wellbeing, how to access help and what to expect	X				
People have the material, social and emotional resources to enable them to cope during times of stress, or challenging life circumstances	X				
People feel safe, secure, settled and supported	X				
People feel a sense of hope, purpose and meaning	X				
People feel valued, respected, included and accepted	X				
People feel a sense of belonging and connectedness with their communities and recognise them as a source of support	X				
People know that it is okay to ask for help and that they have someone to talk to and listen to them	X				
People have the foundations that enable them to develop and maintain healthy, nurturing, supportive relationships throughout their lives	X				
People are supported and feel able to engage with and participate in their communities	X				
People with mental health conditions are supported and able to achieve what they want to achieve in their daily lives	X				
People with mental health conditions, including those with other health conditions or harmful drug and alcohol use, are supported to have as good physical health as possible	X				
People living with physical health conditions have as good mental health and wellbeing as possible	X				
People experiencing long term mental health conditions are supported to self-manage their care (where appropriate and helpful) to help them maintain their recovery and prevent relapse	X				
People feel and are empowered to be involved as much as is possible in the decisions that affect their health, treatment and lives. Even where there may be limits on the decisions they can make (due to the setting, incapacity or illness), people feel that they are supported to make choices, and their views and rights will be respected	X				

Do you have any comments you would like to add on the above outcomes?

<p>In relation to the following:</p> <ul style="list-style-type: none"> “Policy implementation and service delivery that supports prevention and early intervention for good public mental health and wellbeing across the life-course” <p>We have noted we strongly agree, however, this cannot come at the detriment of supporting those living with more disabling <i>mental illness</i> who may require more intensive intervention.</p>

Communities (geographic communities, communities of interest and of shared characteristics)	1	2	3	4	5
Communities are engaged with, involved in, and able to influence decisions that affect their lives and support mental wellbeing	X				
Communities value and respect diversity, so that people, including people with mental health conditions, are able to live free from stigma and discrimination	X				
Communities are a source of support that help people cope with challenging life events and everyday knocks to wellbeing	X				
Communities have equitable access to a range of activities and opportunities for enjoyment, learning, participating and connecting with others.	X				

Do you have any comments you would like to add on the above outcomes?

--

Population	1	2	3	4	5
We live in a fair and compassionate society that is free from discrimination and stigma	X				
We have reduced inequalities in mental health and wellbeing and mental health conditions	X				
We have created the social conditions for people to grow up, learn, live, work and play, which support and enable people	X				

and communities to flourish and achieve the highest attainable mental health and wellbeing across the life-course					
People living with mental health conditions experience improved quality and length of life	X				

Do you have any comments you would like to add on the above outcomes?

N/A

Services and Support	1	2	3	4	5
A strengthened community-focussed approach, which includes the third sector and community-based services and support for mental health and wellbeing, is supported by commissioning processes and adequate, sustainable funding	X				
Lived experience is genuinely valued and integrated in all parts of our mental health care, treatment and support services, and co-production is the way of working from service design through to delivery	X				
When people seek help for their mental health and wellbeing they experience a response that is person-centred and flexible, supporting them to achieve their personal outcomes and recovery goals	X				
We have a service and support system that ensures there is no wrong door, with points of access and clear referral pathways that people and the workforce understand and can use	X				
Everyone has equitable access to support and services in the right place, at the right time wherever they are in Scotland, delivered in a way that best suits the person and their needs	X				
People are able to easily access and move between appropriate, effective, compassionate, high quality services and support (clinical and non-clinical)	X				
Services and support focus on early intervention and prevention, as well as treatment, to avoid worsening of individual's mental health and wellbeing	X				

Do you have any comments you would like to add on the above outcomes?

It will be a challenge to ensure easy access to high quality mental health supports for all of those who need them against the need to be able to respond to those most disabled by mental illness given the critical shortages of key mental health professionals

Information, data and evidence	1	2	3	4	5
People who make decisions about support, services and funding use high quality evidence, research and data to improve mental health and wellbeing and to reduce inequalities. They have access to infrastructure and analysis that support this	X				

Do you have any comments you would like to add on the above outcome?

Data sharing agreements between key public bodies are complex. We would urge the Scottish Government to review best practice to learn where this could improve and seek clarity on appropriate levels of funding to deliver this locally.

Initiatives and developments in mental health services should have a clear evidence base for their implementation, and emerging forms of support or treatment should have an evidence base developed.

- **4.2** Are there any other outcomes we should be working towards? Please specify:

No

QUESTIONS - PART 3

5. Creating the conditions for good mental health and wellbeing

Our mental health and wellbeing are influenced by many factors, such as our home life, our work, our physical environment and housing, our income, our relationships or our community, including difficult or traumatic life experiences or any inequalities we may face. In particular, research suggests that living with financial worries can have a negative influence; whilst good relationships, financial security and involvement in community activities support mental wellbeing. However, we want to hear what you think are the most important factors.

Your answers to these questions may look different if you are responding as an individual, or as part of an organisation.

- **5.1** What are the main things in day-to-day life that currently have the biggest positive impact on the mental health and wellbeing of you, or of people you know?

A positive and well supported childhood free from abuse or the impact of poverty or hate
Supportive social institutions including schools and colleges, workplaces, housing, the police.
A safe environment with good quality housing, free from hate
Access to a consistent and adequate income.
Good relationships with people including family and friends
The opportunity to work or carry out other meaningful activity and to have leisure opportunities.
Access to nature

- **5.2** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

No

- **5.3** What are the main things in day-to-day life that currently have the biggest negative impact on the mental health and wellbeing of you, or people you know?

Adverse childhood experiences, in particular, severe neglect or abuse
Poverty or precarious income
Homelessness or poor or insecure housing
Adult psychological trauma of all types but particularly those associated with violent assault including sexual assault
Hate crimes
Unemployment and lack of structured activity
Loss of role
Social isolation
Chronic illness or disability which impacts on self-esteem, function, ability to work or increases social isolation

- **5.4** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

No

- **5.5** There are things we can all do day-to-day to support our own, or others', mental health and wellbeing and stop mental health issues arising or recurring.

In what ways do you actively look after your own mental health and wellbeing?

- Exercise
- Sleep
- Community groups
- Cultural activities
- Time in nature
- Time with family and friends
- Mindfulness/meditation practice
- Hobbies/practical work
- None of the above
- Other

N/A

- **5.6** If you answered 'other', can you describe the ways in which you look after your own mental health and wellbeing, or the mental health and wellbeing of others?

N/A

- **5.7** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

In relation to question 5.5 it is important that individuals are supported to access good quality information in relation to this approach.

- **5.8** Referring to your last answers, what stops you doing more of these activities? This might include not having enough time, financial barriers, location etc.

N/A

- **5.9** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

No.

- **5.10** We know that money worries and debt can have an impact on mental health and that this is being made worse by the recent rise in the cost of living. In what way do concerns about money impact on your mental health?

N/A

- **5.11** What type of support do you think would address these money related worries?

It is widely understood that the lack of financial welfare can impact on people's mental health and wellbeing. It is important to have appropriately funded local money advice and financial welfare services that are easily accessible to the public.

6. Access to advice and support for mental wellbeing

- **6.1** If you wanted to improve your mental health and wellbeing, where would you go first for advice and support?
 - Friends or family or carer
 - GP
 - NHS24
 - Helplines

- Local community group
 - Third Sector (charity) support
 - Health and Social Care Partnership
 - Online support
 - School (for example, a guidance teacher or a school counsellor)
 - College or University (for example, a counsellor or a student welfare officer)
 - Midwife
 - Health visitor
 - Community Link Workers
 - Workplace
 - An employability provider (for example, Jobcentre Plus)
 - Other
- **6.2** If you answered 'online' could you specify which online support?

N/A

- **6.3** Is there anywhere else you would go to for advice and support with your mental health and wellbeing?
 - Friends or family or carer
 - GP
 - NHS24
 - Helplines
 - Local community group
 - Third Sector (charity) support
 - Health and Social Care Partnership
 - Online support
 - School (for example, a guidance teacher or a school counsellor)
 - College or University (for example, a counsellor or a student welfare officer)
 - Midwife
 - Health visitor
 - Community Link Worker
 - Workplace
 - An employability provider (for example, Jobcentre Plus)
 - Other

- **6.4** If you answered 'online' could you specify which online support?

N/A

- **6.5** If you answered local community group, could you specify which type of group/ activity/ organisation?

N/A

- **6.6** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

N/A

- **6.7** We want to hear about your experiences of accessing mental health and wellbeing support so we can learn from good experiences and better understand where issues lie.

Please use this space to tell us the positive experiences you have had in accessing advice and support for your mental health or wellbeing.

N/A

- **6.8** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

It is important that those we support through HSCP services have a choice of realistic options for care, support or treatment that meets their needs and under a framework of 'choosing wisely'. This may be the choice of different psychiatric treatments or to be supported by different commissioned providers, the choice to self-management where appropriate or the choice to access support via face-to-face, telephone or an online consultation. Choice must be at the heart of accessing a range of different spaces for information and advice.

- **6.9** We also want to hear about any negative experiences of accessing mental health and wellbeing advice and support so we can address these.

If you have experienced barriers to accessing support, what have they been?

- Lack of awareness of support available
- Time to access support
- Travel costs
- Not the right kind of support
- Support not available near me
- Lack of understanding of issues
- Not a good relationship with the person offering support
- Having to retell my story to different people
- Long waits for assessment or treatment
- Stigma
- Discrimination
- Other

- **6.10** If you selected 'other', could you tell us what those barriers were?

N/A

- **6.11** Is there anything else you would like to tell us about this, whether you're answering as an individual or on behalf of any organisation?

N/A

- **7.** We have asked about the factors that influence your mental health and wellbeing, about your own experiences of this and what has helped or hindered you in accessing support. Reflecting on your answers, do you have any specific suggestions of how to improve the types and availability of mental health and wellbeing support in future?

It is critical that interventions for mental illness are appropriately funded and delivered to best meet the personal and health related outcomes of those we support and be able to deliver safe services timeously. .

For those without acute or severe ongoing mental illness, it is important that they can support themselves through accessing good quality information and advice and self-management tools. For this to succeed, clear and concise communication must be delivered both nationally and locally on where to access this.

8. The role of difficult or traumatic life experiences

The NHS National Trauma Training Programme defines trauma as: “a wide range of traumatic, abusive or neglectful events or series of events (including Adverse Childhood Experiences (ACEs) and trauma in adulthood) that are experienced as being emotionally or physically harmful or life threatening. Whether an event(s) is traumatic depends not only on our individual experience of the event, but also how it negatively impacts on our emotional, social, spiritual and physical wellbeing. We are all affected by traumatic events in different ways.”

- **8.1** For some people, mental health issues can arise following traumatic or very difficult life experiences in childhood and/or adulthood.
- What kind of support is most helpful to support recovery from previous traumatic experiences?

- Safe, supportive relationships; a 'go-to' person, supportive family and/or social supports and networks, are a key buffer to the stress impact of traumatic events
- Internal strengths such as a strong self-awareness, ability to problem solve, a creative outlet, good coping skills can reduce our stress levels
- Access a range of information different levels of supports and support services to develop knowledge and awareness; if relevant a self-care plan and coping skills
- Provide people with a different experience of relationships by creating trauma-assessed stress-free environments where people are empowered to make decisions, collaborate and ultimately develop trust.
- Trauma-informed colleagues, line managers and employers

- **8.2** What things can get in the way of recovery from such experiences?

- A lack of basic human needs such as housing, finance, safe communities, education, nutrition and human contact can make it harder to recover
- As Trauma most often happens in relationships it can make it harder for people affected by trauma to trust and engage in relationships with others, including workers.
- Lack of self-awareness and /or taking own physical and emotional health and wellbeing for granted
- Difficulty in managing feelings; of shame, self-blame, worthlessness, guilt, failure, anger can lead to avoidance, hyper-vigilance, flashbacks and overwhelming emotions.

- Symptoms of depression, anxiety, self-harm, substance misuse or suicidality.
- The development of PTSD, vicarious or secondary trauma

- **8.3** Is there anything else you'd like to tell us about this, whether you're answering as an individual or on behalf of an organisation?

N/A

9. Children, Young People and Families' Mental Health

- **9.1** What should our priorities be when supporting the mental health and wellbeing of children and young people, their parents and families?

The priorities should be that our practice reflects Scottish Government recommendations which in turn reflects current legislation and an up-to-date evidence base.

A relational approach is used with families and young people, which ensures we are trauma informed.

Families have the same positive experience in how they access support.

Children, young people and those who care for them are involved in the decisions about the support they receive.

Families understand the referral process and receive regular information about their places on a waiting list. Where children or families receive input from different teams or move from one team to another, the transition is seamless.

There is an appropriate emphasis on prevention and early intervention, whilst ensuring that those with more serious mental health conditions can receive high quality timeous assessment and treatment.

Every child or young person and their families or carers will get the help they need, when they need it, from the people with the right knowledge, skills and experience to support them.

Outcome and/or goals are agreed with young people and families and there is a plan to achieve those that reflects the family's views.

We have flexibility within services to respond to individual needs.

All places from which care or treatment are delivered have been designed with trauma in mind.

Staff working with children and young people with mental health difficulties have a shared sense of values and principles.

Care is taken to use appropriate languages in relation to mental health difficulties that reflects social and emotional development.

Children or young people most at risk of harm are able to be appropriately prioritised.

The needs of young people who may receive services from in 'children's' or 'adults' services are considered as a group and services address their needs as young people.

Children, young people and families are seen holistically including an understanding of parental mental health. Services adopt a Whole Family Approach.

Young people and families know we have heard their voice and are responding to their needs.

Staff receive appropriate training to feel confident in supporting children, young people or families.

- **9.2** Is there anything else you'd like to tell us about this, whether you're answering as an individual or on behalf of an organisation?

N/A

- **9.3** What things do you feel have the biggest impact on children and young people's mental health?

In a positive way:

People feeling secure and supported.

People feeling understood.

Plus the 5 pillars of wellbeing

Over and above social determinants and societal pressures.

The stigma of "mental health" issues may stop people seeking help at the right time.

Young people and families not feeling listened to.

A power imbalance between staff and families. Decisions being made for families that do not reflect the family culture or their motivations.

Families struggling to navigate long waits or complex services and being unsure of where the most effective service is for their child or young person.

- **9.4** Is there anything else you'd like to tell us about this, whether you're answering as an individual or on behalf of an organisation?

N/A

10. Your experience of mental health services

- **10.1** If you have received care and treatment for any aspect of your mental health, who did you receive care and treatment from?
 - Community Mental Health Team
 - GP Practice
 - Inpatient care
 - Third Sector Organisation
 - Psychological Therapy Team
 - Digital Therapy
 - Peer support group
 - Perinatal Mental Health Team
 - Child and Adolescent Mental Health Team (CAMHS)
 - Forensic Mental Health Unit
 - Other

- **10.2** If you selected 'other', could you tell us who you received treatment from?

N/A

- **10.3** How satisfied were you with the care and treatment you received?

N/A

- **10.4** Please explain the reason for your response above.

N/A

- **10.5** Mental health care and treatment often involves links with other health and social care services. These could include housing, social work, social security, addiction services, and lots more.

If you were in contact with other health and social care services as part of your mental health care and treatment, how satisfied were you with the connections between these services?

West Lothian HSCP believes search a strongly integrated health and social care partnership, working closely with other NHS or under local authority services including housing and anti-poverty services provides the best basis for high quality mental health services

- **10.6** Is there anything else you'd like to tell us about this, whether you're answering as an individual or on behalf of an organisation? For example, positive experiences of close working or areas where joint working could be improved.

N/A

11. Equalities

We are aware that existing inequalities in society put some groups of people at a higher risk of poor mental health. We also know that not being able to access mental health support and services can increase that risk.

11.1 The previous questions provided an opportunity to comment on the factors that influence our mental health and wellbeing and our experiences of services. Do you have any further comments on what could be done to address mental health inequalities for a particular group of people? If so, what are they?

Greater working at the national level to establish better understanding of approaches for people in different groups. In many areas for example, there are relatively low numbers of black or minority ethnic people, and so local services struggle to be able to listen to the voices of those people. A national approach is likely to have greater visibility and impact.

12. Funding

- **12.1** Do you think funding for mental health and wellbeing supports and services could be better used in your area? **N/A**
- **12.2** Please explain the reason for your response above.

N/A

- **12.3** Is there anything else you'd like to tell us about this, whether you're answering as an individual or on behalf of an organisation?

The HSCP would value consistent long-term funding of health and social care mental health services underpinned by robust costing of the services to be provided. It is important to be able to match the aspiration of policy with the ability to consistently deliver what is required.

13. Anything Else

- **13.1** Is there anything else you'd like to tell us?

No

QUESTIONS – PART 4

OUR MENTAL HEALTH AND WELLBEING WORKFORCE

In the past decade, mental health services have changed dramatically, with increases in the breadth of support available in community settings, as well as an increase in the provision of highly specialist services. Our people are our biggest asset and we value the essential contribution that workers make in all settings across the country each and every day.

To deliver our ambitions, it is essential that we understand the shape of the current mental health and wellbeing workforce in Scotland, and what the future needs of the workforce are. We must embed an approach based on fair work principles which supports the wellbeing of workers in all parts of the system.

The mental health and wellbeing workforce is large, diverse, and based in a range of services and locations across Scotland. We want to make sure that we are planning for everyone who is part of this workforce. The breadth of mental health services and settings where services may be located, as well as the range of users accessing them are illustrated below.

In the Strategy, we want to set out our approach to supporting the workforce building upon the principles and actions set out in the recently published [National Workforce Strategy for Health and Social Care](#).

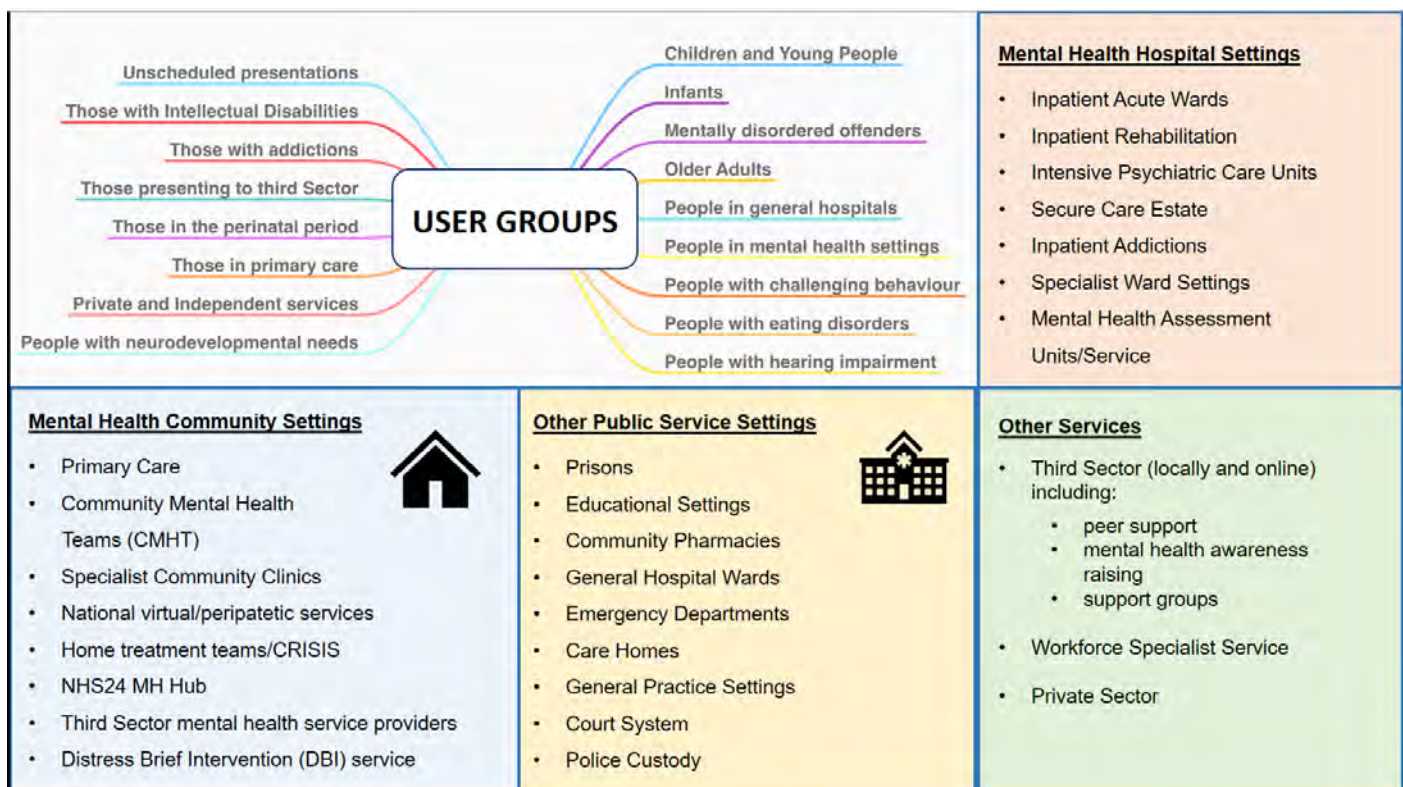
Following on from the publication of the Strategy, we will work with partners, including NHS, local authorities and the third sector, as well as people with lived experience of mental ill health and mental health services, to produce a more detailed Workforce Plan.

14. Our Vision and Outcomes for the Mental Health and Wellbeing Workforce

Our vision is that the current and future workforce are skilled, diverse, valued and supported to provide person-centred, trauma-informed, rights-based, compassionate services that promote better population mental health and wellbeing outcomes.

To achieve this vision for our workforce and work towards longer term population and public health aims we have started to think about the outcomes that we need to achieve in the short and medium term.

We have consulted with partners and identified a series of outcomes for each of the five pillars of workforce planning set out in the [National Workforce Strategy for Health and Social Care](#): Plan, Attract, Train, Employ and Nurture.



- **14.1** Do you agree that these are the right outcomes for our mental health and wellbeing workforce? For each we'd like to know if you think the outcome is:

1. Strongly agree	2. Agree	3. Neutral	4. Disagree	5. Strongly disagree
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- This will help us to understand what is most important to people and think about what our priorities should be. **Please indicate your selection with a tick under the corresponding number:**

Short term (1-2 years)		1	2	3	4	5
Plan	Improved evidence base for workforce planning including population needs assessment for mental health and wellbeing	X				
	Improved workforce data for different mental health staff groups	X				
	Improved local and national workforce planning capacity and capability	X				
	Improved capacity for service improvement and redesign	X				
	User centred and system wide service (re) design	X				
	Peer support and peer worker roles are a mainstream part of mental health services	X				
Attract	Improved national and international recruitment and retention approaches/mechanisms	X				
	Increased fair work practices such as appropriate channels for effective voice, create a more diverse and inclusive workplace	X				
	Increased awareness of careers in mental health	X				
Train	Long term workforce planning goals are reflected in and supported by training programmes provided by universities, colleges and apprenticeships	X				
	Increased student intake through traditional routes into mental health professions	X				
	Create alternative routes into mental health professions	X				
	Create new mental health roles	X				
	Improved and consistent training standards across Scotland, including trauma informed practice and cultural competency	X				
	Our workforce feel more knowledgeable about other Services in their local area and how to link others in to them	X				
	Our workforce is informed and confident in supporting self-care and recommending digital mental health resources	X				
	Develop and roll out mental health literacy training for the health and care workforce, to provide more seamless support for physical and mental health	X				
	Improved leadership training	X				

	Improved Continuing Professional Development (CPD) and careers progression pathways	X				
Employ	Consistent employer policies	X				
	Refreshed returners programme	X				
	Improved diversity of the mental health workforce and leadership	X				
Nurture	Co-produced quality standard and safety standards for mental health services	X				
	Safe working appropriate staffing levels and manageable workloads	X				
	Effective partnership working between staff and partner organisations	X				
	Improved understanding of staff engagement, experience and wellbeing	X				
	Improved staff access to wellbeing support	X				
	Improved access to professional supervision	X				

Do you have any comments you would like to add on the above outcomes?

<p>Workforce availability continues to be one of the biggest challenges in delivering high quality care, support and treatment. After analysis of upcoming investment in both nursing and medical training opportunities for mental health, this will not meet the future workforce demand.</p> <p>The availability of workforce data also continues to be a challenge,</p> <p>The HSCP believes this should be given primary focus within the new strategy.</p>
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Medium term (3-4 years)	1	2	3	4	5
Comprehensive data and management information on the Mental Health and wellbeing workforce	X				
Effective workforce planning tools	X				
Good understanding of the gaps in workforce capacity and supply				X	
Improved governance and accountability mechanisms around workforce planning	X				
User centred and responsive services geared towards improving population mental health outcomes	X				
Staff feel supported to deliver high quality and compassionate care				X	
Leaders are able to deliver change and support the needs of the workforce	X				
Staff are able to respond well to change	X				

Do you have any comments you would like to add on the above outcomes?

Where a '4' has been given a above rather than a '1' demonstrates the HSCPs desire to see these actions brought into the short term planning sphere.

- **14.2** Are there any other short, medium and longer term outcomes we should be working towards? **Please specify:**

No

15. The Scope of the Mental Health and Wellbeing Workforce

In order to inform the scope of the workforce we need to achieve our ambitions, it is essential that we build consensus around the definition of who is our mental health and wellbeing workforce. We hope that such a definition can be applied to describe the future workforce.

- **15.1** Please read the following statements and select as many options as you feel are relevant.
 - a) The mental health and wellbeing workforce includes someone who may be:
 - i. **Employed**
 - ii. **Voluntary**
 - iii. **Highly specialised**
 - iv. **Expert by experience**
 - b) The mental health and wellbeing workforce includes someone who may work / volunteer for:
 - i. **The NHS**
 - ii. **The social care sector**
 - iii. **The third and charity sectors**

- iv. **Wider public sector (including the police, criminal justice system, children's services, education)**
 - v. **The private sector**
 - vi. **Other, please specify - The local Authority**
- c) The mental health and wellbeing workforce includes someone who may be found in:
- i. **Hospitals**
 - ii. **GP surgeries**
 - iii. **Community settings (such as care homes)**
 - iv. **The digital space**
 - v. **Educational settings (such as schools, colleges or universities)**
 - vi. **Employment settings**
 - vii. **Justice system settings (such as police stations, prisons or courts)**
 - viii. **Other, please specify – Community setting is much wider and would require to be expanded within the final plan.**
- d) The mental health and wellbeing workforce includes someone who may:
- i. **Complete assessments for the presence or absence of mental illness**
 - ii. **Provide treatment and/or management of diagnosed mental illness**
 - iii. **Provide ongoing monitoring of diagnosed mental illness**
 - iv. **Undertake work to prevent the development of mental illness**
 - v. **Undertake work to address factors which may increase the risk of someone developing mental illness**
 - vi. **Provide support to families of those with mental illness**
 - vii. **Provide direct support on issues which affect wellbeing, but might not be directly related to a diagnosed mental illness, such as housing, financial issues, rights**
 - viii. **Other, please specify_____**

16. Solutions to Our Current and Future Workforce Challenges

To support our ongoing recovery from Covid and address the current and future challenges for our services and workforce, we would like your views on how we can best respond.

- **16.1** How do we make the best use of qualified specialist professionals to meet the needs of those who need care and treatment?

It is critical to ensure that workforce planning is embedded in service delivery across our HSCP functions. This is no different in Mental Health, where the workforce is under significant pressure due to the unscheduled nature of some of our work.

The HSCP has developed its workforce strategy which is being shared with Scottish Government at the end of July 2022. Within the strategy states that skills mixing is important when designing a mental health service that works in a multidisciplinary way. Bearing this in mind, those with specialist skills, whom are at times a limited resource be protected where possible to deliver specialist interventions, care and treatment. This at times is best determined at a local level.

- **16.2** How do we grow the workforce, in particular increasing the capacity for prevention and early intervention, which enables individual needs to be recognised and addressed in a timely, appropriate manner?

With particular reference to increasing capacity for prevention and early intervention, skills mixing is critical to best support a wide range of individuals. This may include a mix of statutory and commissioned interventions. This refers to both commissioning at a local and national level.

Most importantly, we seek support from the Scottish Government to ensure those entering the workforce see a career in care as a viable and sustainable option.

This outcome could be better met by improved Terms and Conditions for the caring workforce, longer term funding for our partners within the third and independent sectors and best access to clear pathways into maximised career opportunities.

- **16.3** How do we protect the capacity for specialised and complex care roles in areas like forensic mental health?

We are experiencing a critical shortage of some mental health professionals most notably psychiatrists.

We would seek both increased training numbers and greater visibility of certain areas of practise, for example, old age psychiatry

- **16.4** How do we widen the workforce to fully integrate the contribution of non-professionals and experts by experience, including peer support workers without sacrificing quality of care?

Within West Lothian, we currently work closely with partners in the third and independent sectors delivering interventions such as visiting support (social care), peer support, advocacy and other therapeutic interventions.

We believe this workforce is current integrated in our model of care and support however the challenge for those partners working with us is the short term funding arrangements we feel under pressure to deliver, understandably due to the current budget cycle.

- **16.5** How do we support a more inclusive approach, recognising that many different workers and services provide mental health and wellbeing support?

We must ensure planning for mental health services, both locally and nationally are based around the person we are supporting. People may wish to access support in different ways and we need to facilitate that where appropriate.

Ensuring the workforce is representative of the population that we are supporting is important.

- **16.6** With increasing demand, how do we prioritise creating capacity for re-designing services to better manage the impacts of Covid and other systemic pressures?

In West Lothian, we believe the HSCP has a good knowledge of how to best support West Lothian citizens. By providing funding to local areas to develop local solutions is a good start, something we have seen more of from the Scottish Government in recent years.

However it must be recognised there is a limited planning and strategic development support budget within local areas which can stifle creativity, block engagement pathways and as a result not see the best possible interventions put in place for those accessing services.

Longer term funding from Scottish Government to support strategic planning would be beneficial rather than smaller, short term funding allocations assigned to each individual project, which as usually based on population numbers.

- **16.7** How do we better support and protect the wellbeing of those working in all parts of the system?

Ensure wellbeing interventions that are delivered within local areas are appropriately funded in a sustainable way.

17. Our Immediate actions

- **17.1** In addition to developing our workforce vision and outcomes, we are also seeking views on what our immediate short-term actions should be for the mental health and wellbeing workforce. **Please tick as many options below as you agree with.**
 - a. Develop targeted national and international recruitment campaigns for the mental health workforce
 - b. Scope alternative pathways to careers within the workforce, beyond traditional university and college routes, such as apprenticeship pathways into mental health nursing
 - c. Improve capacity in the mental health services to supervise student placements to support the growth of our workforce
 - d. Take steps to increase the diversity of the mental health workforce, so it is reflective of the population that it cares for
 - e. Work with NHS Education Scotland (NES) to improve workforce data, including equalities data, for mental health services in the NHS, by the end of 2023
 - f. Undertake an evaluation of our Mental Health Strategy 2017 commitment to fund 800 additional mental health workers in key settings, including A&Es, GP practices, police station custody suite and prisons, to ensure that the lessons learnt inform future recruitment.
- **17.2** Do you think there are any other immediate actions we should take to support the workforce? **Please Specify.**

Ensure that any development and mental health services funded centrally have a full workforce analysis before being implemented.
Reconsider the single intake and output of mental health nursing students and review the possibility of returning to a twice yearly intake to support the variation of availability of nursing staff across the year.
Develop specialist clinical nurse specialist roles within nursing or AHP roles that would provide an alternative to the more generic Advanced Nurse Practitioner roles to address shortfalls in specialist areas of work particularly psychiatry

- **17.3** Do you have any further comments or reflections on how to best support the workforce to promote mental health and wellbeing for people in Scotland? **Please Specify.**

No

- **17.4** Do you have any examples of different ways of working, best practice or case studies that would help support better workforce planning and ensure that we have skilled, diverse, valued and supported workforce that can provide person-centred, compassionate services that promote better population mental health and wellbeing outcomes. For example, increasing the use of advanced practitioners. **Please Specify.**

No

DATA LABEL: PUBLIC



SOCIAL WORK AND HEALTH POLICY DEVELOPMENT AND SCRUTINY PANEL

2021/22 FINANCIAL PERFORMANCE – MONTH 12 MONITORING REPORT

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

To provide the Panel with an update on the financial performance of the Social Work and Health portfolio.

B. RECOMMENDATION

It is recommended that the Panel:

1. Notes the financial performance of the Social Work and Health portfolio in 2021/22;
2. Notes that the Social Work and Health portfolio position at month 12 was part of the overall council budget position reported to Council Executive on 21 June 2022;
3. Notes actions to be taken by Heads of Service and budget holders to manage spend within available resources.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Local Government (Scotland) Act 1973, Section 95; Local Government in Scotland Act 2003, section 1-14.
III Implications for Scheme of Delegations to Officers	No implications at this stage.
IV Impact on performance and performance indicators	Effective budget management is an essential element of service performance. Additional financial reporting provides elected members with information to allow for proper scrutiny of performance of services.
V Relevance to Single Outcome Agreement	The revenue budget provides resources necessary to help deliver the Single Outcome Agreement. Effective prioritisation of resources is essential to achieving key outcomes.
VI Resources – (Financial, Staffing and Property)	An overspend of £390,000 was the position for the Social Work and Health portfolio revenue budget in 2021/22.
VII Consideration at PDSP	A financial performance report will be presented to the Panel twice yearly on an ongoing basis.

VIII Other Consultations

Head of Housing Social Policy

D. TERMS OF REPORT

D.1 Introduction

This report provides an update on the general fund revenue financial performance in respect of the Social Work and Health Policy Development and Scrutiny Panel (PDSP) portfolio of services. The council's revenue budget is operationally managed at a Head of Service level, and the financial position included within this report formed part of the overall council position reported to Council Executive on 21 June 2022. This report also includes the position on the delivery of approved budget reduction measures relevant to the Social Work and Health portfolio for 2021/22.

The budget monitoring process is undertaken in line with the council's budgetary control framework and procedures, which place particular focus on a risk based and pro-active approach to budget monitoring.

This report focuses on the financial performance of council services which further enhances the information presented to elected members to allow scrutiny of service and financial performance. The report contains reference to key performance measures for service areas which are contained within Service Management Plans and referenced in the 2020/21 Local Government Benchmarking Framework (LGBF) data-set. LGBF data for 2021/22 will be collated by the Improvement Service and will be made available later in 2022.

D.2 Financial Outturn for 2021/22

The table below summarises the position in relation to service expenditure for the portfolio area. As part of the monitoring exercise, a number of key risks and service pressures have been identified and these are noted in the narrative for the relevant service area.

Service	Budget £'000	Outturn £'000	Variance £'000
GENERAL FUND REVENUE			
Social Work & Health			
IJB Functions			
Care Homes & Housing with Care	10,388	11,993	1,605
Occupational Therapy	2,030	1,740	(290)
Mental Health	5,058	5,276	218
Older People	27,549	24,737	(2,812)
Reablement/Crisis Care	5,387	6,943	1,556
Learning Disabilities	19,726	19,876	150
Physical Disabilities	7,719	7,292	(427)
Net IJB Variance	77,857	77,857	0
Non-IJB Functions			
Child Care & Protection	17,965	19,519	1,554
Residential & Placement Services	9,074	9,197	123
Early Years Change Fund	108	6	(102)
Child & Family Support	4,748	4,327	(421)
Admin/Support	2,702	1,938	(764)
Net Non-IJB Variance	34,597	34,987	390
Net Social Policy Position	112,454	112,844	390

D.3 Summary of Main Issues in Service Expenditure Budgets and Impact on Performance

D.3.1 The Social Work & Health outturn for 2021/22 was an overspend by £390,000

The position for IJB services was breakeven. This reflects an overspend in the cost of running our internal Care Homes and our Reablement/Crisis Care services related to additional costs to cover for vacancies, staff absence due to sickness and requiring use of agency care staff. This has however been offset by underspends in Occupational Therapy, Older People and services for Physical Disabilities. These underspends were related to the early delivery of future year savings and external funding to offset Covid-19 pressures.

The gross position for non-IJB services was an overspend of £390,000. There was an in-year pressure in External Placements for Children within Residential schools, continuing care and foster care placements.

The LGBF includes indicators that relate to Social Policy services. With regard to Older Peoples Services this ranks West Lothian Council as 13 of 32 for the cost per hour of Care at Home at £25.86 per hour and 20th for Residential Costs per week for Adults over 65 at £493 per week

D.3.2 General Fund Revenue – Monitoring of approved budget reductions

For the Social Work & Health portfolio, savings in 2021/22 have been delivered in full and good progress is being made to deliver the remaining reduction measures within the portfolio area in 2022/23.

D.4 SUMMARISED BUDGET POSITION FOR 2021/22

The month 12 outturn position in 2021/22 was an overspend of £390,000 within the General Fund Revenue budget for the Social Work & Health portfolio. The month 12 position was reported to Council Executive on 21 June 2022.

D.5 FUTURE BUDGET ISSUES AND RISKS

There remains significant risks and uncertainties associated with the financial assumptions in the council's budget. The Covid-19 pandemic has had an unprecedented impact on council services and budgets. The ongoing cost of living crisis and the remaining effects of the pandemic and the UK leaving the EU continue to provide considerable uncertainty. In addition, the outcome of the National Care Service consultation and resulting changes to service delivery models will have an impact on local government services, funding and financial and planning assumptions.

In relation to medium term financial planning, whilst acknowledging that the planning assumptions are subject to uncertainty due to the planning time horizon, some of the general risks and uncertainties include annual confirmation of local authority funding from the Scottish Government, pay award, particularly given payroll costs are the councils largest expense, the outcome of the UK leaving the EU, policy changes by the government without adequate funding, demographic demands and inflationary pressures.

Specifically for the Social Work & Health portfolio, the key risks and uncertainties include the ongoing impact of Covid-19 on the market for external suppliers and a potential increase in the requirement for Social Care.

The council's risk based approach to budget monitoring will ensure that effective action is taken to manage risks during the course of the financial year. Officers will continue to provide updates on risks as part of the quarterly budget monitoring reporting to Council Executive at period 4, 6 and 9.

E. CONCLUSION

The 2021/22 position for the Social Work and Health portfolio was an overspend of £390,000. As noted, the position for the Social Work and Health portfolio is part of the overall outturn position for 2021/22 which was reported to Council Executive on 21 June 2022.

F. BACKGROUND REFERENCES

1. Draft 2021/22 General Fund Revenue Budget Outturn - Report by Head of Finance and Property Services on 21 June 2022
2. Revenue Budget 2022/23 – report by Head of Finance & Property Services on 15 February 2022
3. Local Government Benchmarking Framework

Appendices/Attachments: None

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Donald Forrest

Head of Finance and Property Services

Date: 18 August 2022

DATA LABEL: PUBLIC



SOCIAL WORK AND HEALTH - POLICY DEVELOPMENT AND SCRUTINY PANEL

SCOTTISH GOVERNMENT CONSULTATION - NATIONAL CARE SERVICE (SCOTLAND) BILL

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

The purpose of this report is to inform the panel of the Scottish Government's consultation on the National Care Service (Scotland) Bill, seek views on the draft consultation response included in Appendix 1 which is intended to be submitted to the Council Executive for approval.

B. RECOMMENDATION

It is recommended that the Panel:

1. notes that the Scottish Government is consulting on the National Care Service (Scotland) Bill which makes provision for the development of a National Care Service for Scotland which is anticipated to be operational by March 2026;
2. notes that it is planned that the draft response will be submitted to the Council Executive for approval.
3. notes that the proposals outlined within the consultation document will have significant implications for West Lothian Council and local decision making;
4. notes that there are many areas over which the consultation documentation provides little clarity, in particular on Finance, Human Resources implications, the role of council Elected Members and the role of the Chief Social Work Officer.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; providing equality of opportunities; developing employees; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The proposals outlined in the consultation have significant implications for Local Government and local democratic accountability
III Implications for Scheme of Delegations to Officers	It is, as yet, unclear what the impact will be on the Scheme of Delegation to Officers.
IV Impact on performance	N/A

	and Indicators	performance
V	Relevance to Single Outcome Agreement	N/A
VI	Resources - (Financial, Staffing and Property)	This is still unclear as the consultation documentation does not provide any detailed financial information
VII	Consideration at PDSP	The Council Executive approved the Council's response to the Scottish Government's Consultation on the proposed development of a National Care Service for Scotland on
VIII	Other consultations	FMU, Legal Service, Social Policy, Anti-Poverty Services and HR Services

D. TERMS OF REPORT

D.1 BACKGROUND

The Cabinet Secretary for Health and Social Care formally introduced the National Care Service (Scotland) Bill to the Scottish Parliament on 21st June 2022. This Bill sets out principles for the National Care Service (NCS) and states that it is the duty of the Scottish Ministers to promote a care service designed to secure improvement in the wellbeing of the people of Scotland.

The aim of the Bill is to ensure that everyone can consistently access community health, social care and social work services, regardless of where they live in Scotland. It provides for a National Care Service, accountable to Scottish Ministers, with services designed and delivered locally in line with the expectations of many.

The Bill will dissolve the current governance arrangements for the delivery of social care services and empower Ministers to transfer accountability for a range of services, including adult social care and social work services, children's social work and social care services and justice social work services, to the Scottish Ministers, subject to Parliamentary approval.

With regard to any potential transfer of children's services and justice social work services, the Bill requires further public consultation to be held and the results to be laid before Parliament alongside any regulations. This recognises that those areas were not specifically examined by the Independent Review of Adult Social Care.

D.2 Summary of the Bill

The Bill is divided into the following parts:

- **Part 1** - establishes the National Care Service. It makes the Scottish Ministers responsible for organising the National Care Service, enables them to establish new public institutions called care boards to comprise the National Care Service and gives the Ministers power to make regulations transferring health and social care functions to the institutions comprising the National Care Service.
- **Part 2** - gives the Scottish Ministers' powers to make records about people's

health and social care more consistent and better integrated.

- **Part 3** - contains modifications to existing laws relating to the provision and regulation of care.
- **Part 4** - contains provisions to make ancillary regulations, further elaboration in relation to regulation-making powers elsewhere in the Bill and the sections dealing with commencement and short title.

In addition, the Bill gives Scottish Ministers powers to:

- establish (and dissolve) local and special care boards
- make provision about the membership of care boards and what groups they are required to represent
- establish a scheme and standards for sharing information, to facilitate a nationally-consistent electronic health and care record.
- It also requires Ministers to create a charter of rights and responsibilities for social care, with a robust complaints and redress process

Separately, the Bill will introduce rights to breaks for unpaid carers and visiting rights for residents living in adult care homes. These can be implemented before the National Care Service is established.

A series of documents have been published alongside the Bill, including:

- National Care Service (Scotland) Bill Policy Memorandum
- National Care Service (Scotland) Bill Financial Memorandum
- National Care Service (Scotland) Bill Delegated Powers Memorandum
- Legislative Competence Statement
- Impact Assessments

D.3 Call for Views

The Scottish Parliament's Health, Social Care and Sport Committee launched a Call for Views on the National Care Service (Scotland) Bill on 8th July which will close on 2nd September 2022.

The Call for Views covers a range of areas including:

- Policy Memorandum and principles of the National Care Service
- Transfer of services to the National Care Service
- Impact assessments
- Financial memorandum
- National Care Service Principles (Section 1)
- Accountability to Scottish Ministers (Sections 2 and 3)
- Establishment and abolition of care boards (Sections 4 and 5 / Schedules 1 and 2)

- Strategic planning and ethical commissioning (Chapter 2)
- National Care Service Charter (Sections 11 and 12)
- Independent advocacy (Section 13)
- Complaints (Sections 14 and 15)
- Ministers' powers to intervene (Chapter 4)
- Connected functions (research, training, other activities and compulsory purchase (Chapter 5)
- Transfer of functions, including scope of services (Chapter 6 and Schedule 3)
- Inclusion of children's services and justice services (Section 30)
- Consequential modifications / Interpretation of Part 1 (Chapter 7 and Schedule 4)
- Health and social care information (Part 2)
- Right to breaks for carers (Sections 38 and 39)
- Implementation of Anne's Law (Section 40)
- Reserved right to participate in certain contracts (Section 41)
- Regulation of social services (Sections 42 and 43)
- Final provisions (Part 4)

E. CONCLUSION

This consultation includes proposals that would bring a wide range of council services under the direct accountability of Ministers, and taken as a whole, have the potential to represent one of the most extensive public service reforms in recent decades.

The draft response highlights:

- The lack of clarity on the structure and development of care boards
- The use of Secondary Legislation
- The lack of clarity and detail on finance and how the NCS will be funded
- Lack of clarity on the transfer of staff and
- The lack of details on the approach that will be taken to consider the inclusion of Children and Justice Services in the NCS.

The development of the National Care Service (Scotland) Bill outlines a significant transformation programme for the public sector in Scotland and the proposed response is included as Appendix 1 to this report.

F. BACKGROUND REFERENCES

None

Appendices/Attachments:

Appendix 1 – National Care Service (Scotland) Bill – Draft Response

Appendix 2 – National Care Service (Scotland) Bill

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ALISON WHITE

DEPUTE CHIEF EXECUTIVE

18 August 2022

Appendix 1 National Care Service Bill – Consultation – Question set

General questions

- The Policy Memorandum accompanying the Bill describes its purpose as being “to improve the quality and consistency of social work and social care services in Scotland”. Will the Bill, as introduced, be successful in achieving this purpose? If not, why not?

Improving the quality of social work and social care services will require sufficient additional funding. The NCS Bill builds on the Feely report key recommendations. However, it remains unclear what the wider programme of social care reform recommended in the Feeley report and noted in the NCS Bill will cost as these costs have not been estimated in the Financial Memorandum despite them having been identified previously as being key elements of improving the quality of care. It is unclear whether the commitment to increase public investment in social care by 25% over the parliamentary term will be sufficient to meet the costs associated with the following:

- Fair work pay increase commitments
- Bring Free Personal Nursing Care rates in line with National Care Home Contract (NCHC) rates
- Removal of charging for non-residential care
- Increased annual investment in social care
- Increased investment in prevention and early intervention
- Investment in data and digital solutions to improve social care support

Insufficient funding to deliver these in full would undermine the quality improvements currently envisaged.

The Financial Memorandum does highlight however potential additional one-off costs of £247 million to implement the NCS, and potential additional recurring costs from 2026/27 of over £500 million. These costs do not relate to any increase in social work or social care service or capacity but instead relate to additional Scottish Government and new Board staffing, support functions and other overheads. It is also not clear whether or not costs associated with TUPE are included. If this funding was actually invested into direct social work and social care delivery it could have a very significant impact on improving the quality of service provision.

- Is the Bill the best way to improve the quality and consistency of social work and social care services? If not, what alternative approach should be taken?

The implementation of the Bill is likely to cause significant disruption and uncertainty to service delivery and staffing at a time when the ongoing impact of Covid-19 is still being felt and the care sector is very fragile.

The quality and consistency of care could have been achieved without the disruption that will inevitably result from the Bill. A National Care Service could have been created to support IJBs with strengthened remits and responsibilities and national consistency and standards could have been implemented without the disruption or very significant additional administrative and overhead costs that have been identified in the Financial Memorandum to the Bill.

It should be noted that a workforce plan is already in place for the health and social care sector in West Lothian and there are many examples of positive outcomes across partnerships in terms of joint planning, joint recruitment campaigns, joint training/development, integrated teams and joint location. It is not clear of what additional improvement that the NCS offer will offer particularly when NHS employees will still be NHS employees and will not transfer to the NCS. An options appraisal including direct funding of current services would have been insightful.

- Is there anything additional you would like to see included in the Bill and is anything missing?

There is no mention of the role of Chief Social Work Officer within the Bill.

- The Scottish Government proposes that the details of many aspects of the proposed National Care Service will be outlined in future secondary legislation rather than being included in the Bill itself.
 - Do you have any comments on this approach?

From a scrutiny perspective it is concerning that so many aspects of the proposed National Care Service will be outlined in secondary legislation rather than within the Bill itself.

It should also be noted that there is repeated reference to the co-design process but limited information on who/when/how and the timescales are very tight for any meaningful engagement.

- Are there any aspects of the Bill where you would like to have seen more detail in the Bill itself?

The Bill and Policy Memorandum lacks detail on:

- *the approach that will be taken when considering the inclusion of children's services and justice services.
- * the development of a National Care Service Charter of rights and responsibilities, a complaints service, and independent advocacy services
- *The number of care boards and the geographic areas they will cover
- *The membership of the boards and their relationship with the national NCS structures
- *The duties, functions and services they will provide, both directly and commissioned from other bodies
- *Workforce, employment and contractual arrangements (including transfer of staff from local authorities) and how this links to the work of the Fair Work Implementation Group attended by local authorities /CoSLA as well as trade unions and other key stakeholders. How it links to the Health & Care Safe staffing Act, whether or not the current local and national bargaining arrangements will carry over to the NCS. There is also no detail on the process that will be used to consult with staff on changes to their employment and of any investment to support local authorities to deliver the change.

It should also be noted that "All" of adult services is not defined. This should be defined clearly as we progress. Justice is a service to adults, and many services delivered by Children and Families are to adults. The detail of what is meant by a review in relation to children and justice services is critical.

Transfer of services to the National Care Service

- The Bill proposes to give Scottish Ministers powers to transfer a broad range of social care, social work and community health functions to the National Care Service using future secondary legislation. Do you have any views about the services that may or may not be included in the National Care Service, either now or in the future?

While there may be benefits from continuing a close alignment between adult and children's social work there are also risks and disadvantages associated with the inclusion of children's social work and social care services within scope of the NCS. This response therefore does not support the inclusion of children's services within the NCS.

There is no clear evidence base provided of the benefits that could be achieved by the inclusion of children's services in NCS. It is also not clear whether the funding intended to support the establishment of a NCS will include the funding deficits in children's services.

The previous consultation on the proposed development of the National Care Service did not consider the key interfaces that exist between children and families social work, education services, housing, employability services and anti-poverty services. Whilst health is an important partner the significant benefits of retaining close connections with local community services delivered by local authorities cannot be emphasised strongly enough.

In West Lothian, Social Policy and Education Services continue to work in close partnership with the collective aim of further shifting the balance of care to ensure that, where possible, children are looked after in community settings rather than in residential care, regardless of whether these services are provided by council or by an external provider. Education Services and Social Policy have also worked together to develop the Inclusion and Support Service (ISS) to provide an appropriate framework of support for children, young people and their families and enable a holistic view of family need.

The ISS encompasses school and outreach teaching support as well as early intervention and family support and offers preventative interventions for children, young people and their families, who are most at risk of disengaging from education or at risk of being accommodated.

Social Policy and Housing Services are also strongly connected to ensure that vulnerable young people are supported to transition to adulthood and independent living. A Public Social Partnership is in place including both services and third sector partnership to develop and delivery accommodation and outreach services for these young people.

There is an assumed link between the Promise and a NCS however structural change was not one of the recommendations of the Promise or indicated by the review, which focused on practice and legislative change. However, the link made with the Promise commitments and action plan is welcomed, and is where consideration of children's service should sit.

This response also does not support the inclusion of Justice Services within a NCS. The key partnerships that are required to deliver successful and efficient Justice Social Work Services operate at a local level, aligned to local authorities. These arrangements enable all local partners from statutory, independent and third sector to come together to develop plan and design services that meet locally identified needs.

Partnership working at this level enables and promotes a level of innovation and flexibility of approach that would be difficult to achieve on a national basis.

There have been a range of consultations exploring a national approach to the delivery of Justice Services but consensus could not be reached on an appropriate model of delivery that would provide any more added value than the current arrangements.

There is a relatively small number of partnerships arrangements in place with health with regards to the delivery of justice services which are already supported through the current Health and Social Care Partnership arrangements. The majority of the joint working required for Justice Social Work is with police, education and housing.

Consideration also needs to be given as to whether or not there will be a transfer of business support, admin, HR, Legal, Finance, Procurement functions to the NCS. Some of these functions currently have their own skills shortages in particular within legal and procurement services. It should also be noted that there is a need for clarity on why NHS care staff won't transfer to the NCS as it is difficult to see how greater integration will be achieved without this.

- Do you have any general comments on financial implications of the Bill and the proposed creation of a National Care Service for the long-term funding of social care, social work and community healthcare?

The NCS Bill builds on the Feeley report key recommendations. However, it remains unclear what the wider programme of social care reform recommended in the Feeley report and noted in the NCS Bill will cost as these costs have not been estimated in the Financial Memorandum despite them having been identified previously as being key elements of improving the quality of care. It is unclear whether the commitment to increase public investment in social care by 25% over the parliamentary term will be sufficient to meet the costs associated with the following:

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It should also be noted that the employment landscape is extremely complex and requires to be understood -32 authorities, all with local agreements, plus national bargaining and HSCP arrangements already in place for recruitment, workforce planning, career pathways, employee engagement, etc.

Other comments on the financial implications of the Bill are:

- Both the one off and recurring costs noted in the Financial Memorandum have minimal justifying the basis of the values included. This makes it impossible to say if the costs in the Memorandum are reasonable.
- The Memorandum notes that the cost associated with pensions for staff requires more work and engagement. No additional cost has been included as this point which is likely to mean that the total costs associated with the Bill have been understated. This requires to be clarified as soon as possible.
- There is also no detail around the anticipated costs associated with the scale of TUPE transfer
- The Financial Memorandum notes that there may be a significant financial impact if the new Care Boards are unable to reclaim VAT as IJBs currently do in full. No costs have been included for this and there is a risk that this could have very substantial financial implications (Standard VAT rate = 20%) that would reduce funding available for social care compared to the existing VAT arrangements in place for local authority bodies. This requires to be clarified as soon as possible.
- There is no meaningful mention of capital funding arrangements or capital costs in the memorandum. No additional capital costs, or costs of asset maintenance are included in the Memorandum costs. This requires to be clarified as soon as possible.

Financial memorandum questions

- Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes, West Lothian Council agreed a response to the consultation that preceded the Bill.

This prior consultation noted that the proposals would have a cost to the public purse but no further information was given on the costs associated with the proposals. Given the significance of what was being proposed, this was very concerning to the council and a wide range of financial issues were raised in the council's response.

- If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?

As above, the prior consultation did not include any financial assumptions on the costs associated with a NCS. The council's response included concerns highlighted around financial implications associated with pensions, VAT and capital costs and funding which remain unaddressed in the Bill / Financial Memorandum. The council's response also raised concerns around the lack of costing of key commitments around changes to eligibility, early intervention/preventative spend, ending non-residential care charging and other recommendations/commitments made in the Feeley report/consultation. It is therefore extremely disappointing that again, no costing of these commitments has been undertaken for the Financial Memorandum but rather it has just been assumed that these along

with other core demographic and inflationary pressures will be met within the current funding available over the parliamentary term. To assume this without having undertaken any costing of the commitments is a cause for significant concern.

- Did you have sufficient time to contribute to the consultation exercise?

The timescale for the consultation was not sufficient to enable meaningful engagement.

- If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

The Financial Memorandum notes that the transfer of functions from local authorities may have additional financial implications but no costs or savings are quantified. It is noted that the Scottish Government will work with COSLA to identify the financial implications at the appropriate time and that further information will be provided when the relevant secondary legislation is brought forward. Given this, it is not possible to answer this question at this stage.

- Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

As noted previously, there is so little detail provided in the Financial Memorandum as to the basis of the costs, it is impossible to say if the costs included are reasonable and accurate. What is clear from the Financial Memorandum is that the additional administration and overhead costs resulting from the NCS are estimated to be over £200 million per year. This is resource that could potentially have been invested to meet challenges and demands in social work and social care.

Also, given key recommendations and commitments previously noted in this response are not costed in the Financial Memorandum, there is a considered to be a high risk that the additional costs will exceed funding increases indicated for social care over the parliamentary term.

- If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

It is impossible based on the financial information contained in the Memorandum to provide a response to this question. However, the council's expectation would be that any financial costs resulting to the council from this legislation would be fully funded by the Scottish Government.

- Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

Given the lack of detail on the basis of the estimated costs, it is not possible to say if the FM accurately reflects this.

National Care Service Principles (Section 1)

In providing comments on specific sections of the Bill, please consider:

- Whether you agree with provisions being proposed?

This Bill has potential to have a positive impact for people receiving care and for unpaid carers so long as the provision seeks to complement existing local support rather than replace or disrupt existing provisions. Local support can take account of the specific needs of different communities and provides opportunity to strengthen partnerships with other local organisations and networks to improve outcomes for individuals. A fully nationalised service to replace existing local provision could have a negative impact, particularly for those experiencing poverty. West Lothian is an area rich in resource and strong partnership networks exist to link people with relevant local support. There is a risk that this would be lost through centralisation of services.

Accountability to Scottish Ministers (Sections 2 and 3)

Sections 2 and 3 establish Scottish Ministers' overarching responsibilities for the National Care Service, namely to "promote in Scotland a care service designed to secure improvement in the wellbeing of the people of Scotland" and to monitor and improve the quality of services provided by the National Care Service. These provisions have the effect that the National Care Service will be directly accountable to Scottish Ministers.

Please provide your comments on Scottish Ministers' overarching responsibilities for the National Care Service in the box provided.

While we recognise that there may be some benefits to Ministers having overarching responsibilities for the National Care Service with regards to consistency of care etc there are some concerns as to the impact that this may have on the development of local solutions and partnership working with services out with the NCS.

Establishment and abolition of care boards (Sections 4 and 5 / Schedules 1 and 2)

Sections 4 and 5 make provision for the establishment and abolition of care boards and for financial assistance for boards. As set out in the Policy Memorandum, the Bill "makes provision for the Scottish Ministers to establish and fund these boards, called "care boards" in the Bill, to plan and deliver NCS service locally, replacing current Integration Authorities". The Policy Memorandum continues: "There is also provision for "special care boards" to deliver national functions if needed" Connected to Section 4 and annexed to the Bill, Schedule 1 sets out detailed provisions related to the constitution and operation of care boards while Schedule 2 makes consequential amendments to public authorities legislation.

Please provide your comments on this section of the Bill in the box provided.

The Bill in its current form is very general as the intention is that many details will be taken forward through secondary legislation.

It is not yet clear how many “Care Boards” will be established, but it is possible that this will replicate the current “Health Board” landscape there will be significant impact on the strategic design, and delivery (including commissioning) of local services.

Strategic planning and ethical commissioning (Chapter 2)

This Chapter of the Bill requires care boards to have a strategic plan setting out their vision, objectives and budgets for their care board area and incorporating an ethical commissioning strategy. Scottish Ministers must also have a strategic plan and an ethical commissioning strategy for any services provided at the national level.

The Policy Memorandum states that ethical commissioning strategies should set out “arrangements for providing services and how those arrangements have been designed to ensure they best reflect the NCS principles”.

Please provide your comments on this section of the Bill in the box provided.

We agree that with the provision that each care board must have a Strategic Plan which sets out its vision, objectives and budgets. We support the principle that each care board will have an Ethical Commissioning Plan within their Strategic Plan.

As noted previously there is a general lack of detail within the Bill and it is proposed that further details will be provided through secondary legislation.

It should be noted however that the professional oversight and role of the Chief Social Work Officer should be embedded in the planning for services designed and delivered under the National Care Service.

National Care Service Charter (Sections 11 and 12)

Sections 11 and 12 of the Bill make provision for the Scottish Ministers to prepare and publish a National Care Service charter, to be co-designed with those with lived or living experience and reviewed on a five-yearly basis.

According to the Policy Memorandum, the Charter “will set out what people can expect from the NCS and provide a clear pathway to recourse should the rights in the Charter not be met”.

The first and subsequent versions of the charter must be subject to public consultation and a copy must be laid before the Scottish Parliament

Please provide your comments on this section of the Bill in the box provided.

We generally welcome the provisions within the Bill which places duties on Scottish Ministers to create a National Care Service Charter of rights and responsibilities, a complaints service, and independent advocacy services. However, as detail on all of these areas is left for secondary legislation we are therefore unable to provide a more detailed view on this.

The National Care Service Charter places a duty on Ministers to have due regard for the views of those delivering services under the NCS when preparing and reviewing the charter. It will be important to link the principles of the NCS as they apply to the workforce, to the development and review of the charter.

Independent advocacy (Section 13)

Section 13 of the Bill gives Scottish Ministers powers to make provision via secondary legislation for independent advocacy services in connection with services provided by the National Care Service.

The Policy Memorandum highlights the emphasis placed by the Independent Review of Adult Social Care on the importance of access to independent advocacy and brokerage services, including peer services, “in empowering people accessing support and unpaid carers” and ensuring “that their voices are heard”.

It goes on to state the Scottish Government’s intention to “develop and implement a coherent, consolidated and consistent approach to independent advocacy services across the range of NCS services” and to do this through co-design with people with lived or living experience of accessing services.

Please provide your comments on this section of the Bill in the box provided.

The Bill places duties on Scottish Ministers to provide, and gives them powers to deliver, a National Care Service Charter of rights and responsibilities, a complaints service, and independent advocacy services. Detail on all of these is left for secondary legislation.

The Bill itself is very general, and states that Scottish Minister “may by provision of regulation” make provision for the provision of independent advocacy services. Consideration here will be with the intersect of responsibilities in legislation where there is a specific duty for provision of advocacy (ASP, AWI, MHCTA) in these instances the duty falls to the local authority with delegated responsibility to social workers. This would suggest that there needs to be a strong connection in regulations to include the role of the CSWO in the NCS (when considering the Social Work (Scotland) Act 1968). There are related advocacy issues in children’s services

Complaints (Sections 14 and 15)

Sections 14 and 15 of the Bill make provision for a complaints service and for the handling of complaints.

To underpin these complaints and redress processes, the Policy Memorandum indicates that Scottish Ministers intend, separate from the Bill, to develop a model for the role of National Care Service Commissioner through co-design with people with lived and living experience of accessing health and social care services.

Please provide your comments on these sections of the Bill in the box provided.

More information is required to enable a full response to be provided on these proposals, however it would be beneficial if existing complaints procedures were used as the basis for the development of new processes.

Ministers' powers to intervene (Chapter 4)

Sections 16 to 22 of the Bill establish powers for Ministers to intervene with respect to care boards and contractors, for instance in case of an emergency or of service failure.

Please provide your comments on these sections of the Bill in the box provided.

This section of the Bill allows Scottish Ministers to apply for emergency intervention orders where there is a likelihood of harm to ensure services are provided without delay. This will be an important consideration for the join between social work responsibilities through Adult Support and Protection (for example) where large scale investigations of suspected harm by a provider feature.

However more information is required to enable a full response on this matter.

Connected functions (research, training, other activities and compulsory purchase (Chapter 5)

Chapter 5 of the Bill establishes certain functions connected to the provision of care, including enabling Scottish Ministers and care boards to:

- conduct, assist in conducting or give financial assistance in relation to research;
- to provide training or to provide financial support to undertake training;
- to provide financial assistance to undertake other activities connected to the services provided to individuals by the National Care Service;
- and to compulsorily purchase land required to exercise a relevant function.

Please provide your comments on these sections of the Bill in the box provided.

More information is required to enable a full response to be provided on these proposals

Transfer of functions, including scope of services (Chapter 6 and Schedule 3)

Chapter 6 confers powers on Scottish Ministers to transfer functions between institutions as part of the National Care Service. These powers include the power to transfer functions from local authorities, to bring aspects of healthcare into the National Care Service, to re-organise the National Care Service and to transfer staff, property and liabilities.

Items of legislation conferring specific functions on a local authority which may be transferred into the National Care Service are listed in Schedule 3, annexed to the Bill.

Please provide your comments on these sections of the Bill in the box provided.

The Bill does not provide enough detailed information on this to provide a detailed response.

Inclusion of children's services and justice services (Section 30)

Chapter 6 also makes provision for the inclusion of children's services and justice services within the scope of the National Care Service at some point in the future, subject to a public consultation on the proposed inclusion of these services. It is proposed that any such inclusion of these services within the scope of the National Care Service would be achieved via secondary legislation.

Please provide your comments on this section of the Bill in the box provided.

With regard to any potential transfer of children's services and justice social work services, we note that the Bill requires further public consultation to be held and the results to be laid before Parliament alongside any regulations.

We have concerns that children and young people have not, at this time, been asked for their views on what social work and social care in Scotland should look like going forward. It is also noted that a recent report from Children in Scotland, commissioned by Social Work Scotland, Healthcare Improvement Scotland and the Care Inspectorate highlighted, the answer to the delivery of more effective children's services is not more structural change and instead a period of stability is required.

The policy memorandum, which accompanies the Bill, states that Ministers intend to create a National Social Work Agency (NSWA) to provide opportunities for training and development, and national leadership, oversight and support. It is proposed that the NSWA that will cover all of social work, including Justice and Children and Families. From the information provided it seems as though this sits outwith the proposed consultation on the inclusion of services for children in the NCS however no further details are provided on how this will work. Social Work Scotland have raised concerns about the ability of the NSWA to provide the objectivity over guiding the quality and scrutiny of the social work profession and instead propose that the NSWA should sit separate from Scottish Government.

The financial memorandum, published alongside the Bill provides no real detail of the financial implications of the proposed inclusion of services for children within the NCS. It should be noted that the proposed expansion in the scope of the NCS to include children and families social work has the potential of bringing the underfunding of these services into sharper focus.

There is still no clear evidence base of the benefits that could be achieved by the inclusion of children's services in NCS.

The previous consultation exercise on the creation of the NCS did not consider the key interfaces that exist between children and families social work, education services, housing, employability services and anti-poverty services. It is noted that whilst health is an important partner the significant benefits of retaining close connections with local community services delivered by local authorities cannot be emphasised strongly enough.

In West Lothian Social Policy and Education Services continue to work in close partnership with the collective aim of further shifting the balance of care to ensure that, where possible, children are looked after in community settings rather than in residential care, regardless of whether these services are provided by council or by an external provider. Social Policy and Housing services in West Lothian are strongly connected to ensure that vulnerable young people are supported to transition to adulthood and independent living. The existing Health and Social Care Partnership provides a solid platform through which crucial relationships are made with colleagues in health settings.

Removing the statutory responsibility for the children's services from Local Government would impact on the ability to deliver a joined-up approach across other essential services that impact on the health and wellbeing of children, young people and their families as these services have wider linkages with areas such as housing, employability, education, public safety and protection.

Whilst there is no evidence base for the inclusion of children's services in a National Care Service, there is a bank of evidence both showing the commitment of Local Authorities to making positive changes to the way they deliver services for children and families and progress towards this goal. West Lothian Council in line with other Scottish Local Authorities have committed to the full incorporation of the United Nations Convention on the Rights of the Child (UNCRC).

Locating children's social work and social care services within the National Care Service is also unlikely to reduce the complexity for children with a disability and their families in accessing services.

Being part of a local authority and part of the Health and Social Care Partnership provides the structure through which a wider range of services can already be accessed including health services, education, employment and housing services as well as other areas such as Council Information Services, libraries and other partnership resources.

It should also be noted that for children with a disability transitioning to adult services much of the transition work that takes place, also involves various other council services such as education and housing.

The proposed alignment between children's social work services and community health services is already in place through the Health and Social Care Partnership and Corporate Parenting work. Locating children's social work services within the NCS is not likely to further significantly improve this alignment.

Any proposal for the inclusion of children's services within the NCS must be viewed within the wider context of the delivery of children's social work services and take account of the key interfaces with other agencies and services in particular education, housing, employment and antipoverty services as well as the independent and third sectors.

It is acknowledged that Bill notes that further work will be undertaken with stakeholders to consider the risks and opportunities, and to rigorously assess the costs and benefits of including children's services within the NCS, however for this engagement to be fully informative an appropriate time scale would need to be given to this exercise.

Consequential modifications / Interpretation of Part 1 (Chapter 7 and Schedule 4)

Chapter 7 makes consequential modifications to the following legislation to reflect proposals set out in this part of the Bill (set out in Schedule 4, annexed to the Bill):

Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

Local Government (Scotland) Act 1973

Public Services Reform (Scotland) Act 2010

For the purposes of interpreting Part 1 of the Bill, Chapter 7 defines the National Care Service as comprising "care boards" and "the Scottish Ministers insofar as they are exercising a function"

conferred on them by virtue of Part 1 of the Bill or an aspect of healthcare that has been “designated as a National Care Service function”.

Please provide your comments on these sections of the Bill in the box provided.

More information is required to enable a full response to be provided on these proposals

Health and social care information (Part 2)

Part 2 of the Bill gives the Scottish Ministers powers to establish a scheme for care records to be shared between the proposed National Care Service and the National Health Service. It also makes provision for Scottish Ministers to produce an information standard which will set out how certain information is to be processed.

Please provide your comments on this section of the Bill in the box provided.

The Bill’s stated purpose is to “make provision about the processing of health and social care information; (and) to make provision about the delivery and regulation of social care; and for connected purposes”. We agree that sharing of information focused on delivering outcomes for people who use our services would be a positive step.

Right to breaks for carers (Sections 38 and 39)

Sections 36 and 37 of the Bill propose amendments to the Carers (Scotland) Act 2016 and consequent changes to the Social Care (Self-directed Support) (Scotland) Act 2013, principally with a view to establishing a right to breaks for carers.

Please provide your comments on these sections of the Bill in the box provided.

We generally support the principle of establishing a right to breaks for unpaid carers. This proposal has the potential to benefit people who may require some respite, particularly those on low incomes who are unable to afford to take a break. It would be hoped that the criteria for receipt of this fund would include both Carer’s Allowance and those entitled to a Carer’s Addition on Universal Credit.

However as noted previously the Bill, as it currently stands does not provide enough information to provide a more detailed response. There is also limited information on how this will be funded.

Implementation of Anne’s Law (Section 40)

Section 40 of the Bill proposes amendments to the Public Services Reform (Scotland) Act 2010 with a view to supporting implementation of “Anne’s Law” related to visits to or by care home residents.

Please provide your comments on these sections of the Bill in the box provided.

We would generally support the implementation of Anne's Law which gives people living in adult care homes a right to maintain contact with family and friends.

National Care Service (Scotland) Bill

[AS INTRODUCED]

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Schedule 4—Modifications in connection with Part 1

**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 17-EN), a Financial Memorandum (SP Bill 17-FM), a Policy
Memorandum (SP Bill 17-PM), a Delegated Powers Memorandum (SP Bill 17-DPM) and
statements on legislative competence (SP Bill 17-LC).**

National Care Service (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to establish the National Care Service; to make provision about the processing of health and social care information; to make provision about the delivery and regulation of social care; and for connected purposes.

PART 1

THE NATIONAL CARE SERVICE

CHAPTER 1

THE PRINCIPLES AND INSTITUTIONS OF THE NATIONAL CARE SERVICE

Principles

1 The National Care Service principles

The National Care Service principles are—

- (a) the services provided by the National Care Service are to be regarded as an investment in society that—
 - (i) is essential to the realisation of human rights,
 - (ii) enables people to thrive and fulfil their potential, and
 - (iii) enables communities to flourish and prosper,
- (b) for them to be such an investment, the services provided by the National Care Service must be financially stable in order to give people long-term security,
- (c) services provided by the National Care Service are to be centred around early interventions that prevent or delay the development of care needs and reduce care needs that already exist,
- (d) services provided by the National Care Service are to be designed collaboratively with the people to whom they are provided and their carers,
- (e) opportunities are to be sought to continuously improve the services provided by the National Care Service in ways which—
 - (i) promote the dignity of the individual, and
 - (ii) advance equality and non-discrimination,

(f) the National Care Service, and those providing services on its behalf, are to communicate with people in an inclusive way, which means ensuring that individuals who have difficulty communicating (in relation to speech, language or otherwise) can receive information and express themselves in ways that best meet their individual needs,

(g) the National Care Service is to be an exemplar in its approach to fair work for the people who work for it and on its behalf, ensuring that they are recognised and valued for the critically important work that they do.

The Scottish Government

2 Responsibility for the National Care Service

(1) It is the duty of the Scottish Ministers to promote in Scotland a care service designed to secure improvement in the wellbeing of the people of Scotland.

(2) Everything that the Scottish Ministers do in discharging that duty is to be done in the way that seems to them to best reflect the National Care Service principles.

3 Responsibility for improvement

It is the duty of the Scottish Ministers to put and keep in place arrangements for the purpose of monitoring and improving the quality of the services that the National Care Service provides.

Care boards

4 Establishment and abolition of care boards

(1) The Scottish Ministers may by regulations—

- (a) establish bodies to be known as care boards,
- (b) abolish a care board.

(2) The power conferred by subsection (1) must be exercised so that—

- (a) there are care boards with responsibility for particular geographical areas, and
- (b) those boards' areas—
 - (i) together cover the whole of Scotland, and
 - (ii) do not coincide or overlap.

(3) A care board that is—

- (a) established in fulfilment of the duty under subsection (2) is a local care board,
- (b) not established in fulfilment of that duty is a special care board.

(4) Regulations establishing a care board must—

- (a) in all cases—
 - (i) specify the name by which the board is to be known,
 - (ii) state whether it is a local or special care board,

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(iii) specify the minimum and maximum number of ordinary members of the board,

(b) in the case of a local care board, identify the geographical area for which the board is responsible (which may be done by reference to another document).

5 (5) Further provision in connection with care boards is made by—

(a) schedule 1, which makes provision about their constitution and operation,

(b) schedule 2, which inserts references to them into other enactments which (amongst other things) impose duties on public bodies.

5 Financial assistance for care boards

10 (1) The Scottish Ministers may provide any financial assistance to care boards that they consider appropriate.

(2) For the purposes of subsection (1), “financial assistance” includes grants, loans, guarantees and indemnities.

15 (3) The Scottish Ministers may attach conditions (including conditions as to repayment and the payment of interest) in respect of any financial assistance provided under this section.

CHAPTER 2

STRATEGIC PLANNING

The Scottish Government

6 Strategic planning by the Scottish Ministers

20 (1) Subsection (2) applies if, by virtue of regulations under section 27, 28, or 29—

(a) the Scottish Ministers have the function of providing a service, or

(b) the function of their providing a service is designated as a National Care Service function.

(2) The Scottish Ministers must—

25 (a) have a strategic plan, and

(b) make their latest plan publicly available.

(3) The Scottish Ministers’ strategic plan is a document setting out, for the period of the plan, their—

(a) arrangements for providing the service referred to in subsection (1),

30 (b) vision for the service,

(c) objectives in relation to the service,

(d) budget projections in relation to the service,

(e) ethical commissioning strategy in relation to the service.

35 (4) The Scottish Ministers’ strategic plan may include any other information they consider appropriate.

4

- (5) Before making a strategic plan the Scottish Ministers must consult publicly on a draft of the plan.
- (6) The Scottish Ministers—
 - (a) may make a new strategic plan at any time (having complied with subsection (5)),
 - (b) must ensure that there is no gap between the period of one plan ending and that of its successor beginning.
- (7) The period of a strategic plan—
 - (a) must not exceed 3 years,
 - (b) begins on the date that the plan states it begins,
 - (c) ends on the earlier of—
 - (i) the date that the plan states it ends, or
 - (ii) the date that the period of the plan's successor begins.

Care boards

7 Strategic planning by care boards

- (1) A care board must—
 - (a) have a strategic plan, and
 - (b) make its latest plan publicly available.
- (2) A care board's strategic plan is a document setting out, for the period of the plan (as defined in section 9(2)), the board's—
 - (a) vision,
 - (b) objectives,
 - (c) structure,
 - (d) budget projections,
 - (e) arrangements for providing services in exercise of the functions conferred on the board by virtue of regulations under section 27, 28, or 29,
 - (f) ethical commissioning strategy in relation to those services.
- (3) A care board's strategic plan may include any other information the board considers appropriate.

8 Care boards' planning process

- (1) Before making a strategic plan, a care board must—
 - (a) consult in accordance with subsection (3), and
 - (b) then have a draft of the plan approved by the Scottish Ministers.
- (2) The Scottish Ministers may decline to approve a care board's draft plan until any changes they consider appropriate have been made.

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- (3) A care board must consult on a strategic plan in the following way—
- (a) the board must seek views on a draft of the plan from—
 - (i) its community planning partners, and
 - (ii) in the case of a local care board, any other local care board whose area of responsibility borders its own,
 - (b) then, having taken their views into account, the board must seek views on a draft of the plan from—
 - (i) in the case of a local care board, the residents of its area of responsibility,
 - (ii) in the case of a special care board, the public in Scotland.
- (4) Nothing in this section precludes a care board from seeking views on a proposal for a strategic plan from any person at any time.
- (5) In subsection (3)(a), the reference to a care board’s community planning partners is to any person who is in a community planning partnership with the board for the purposes of Part 2 of the Community Empowerment (Scotland) Act 2015.

9 Frequency of planning by care boards

- (1) A care board—
- (a) may make a new strategic plan at any time (having complied with section 8(1)),
 - (b) must seek to ensure that there is no gap between the period of one plan ending and that of its successor beginning.
- (2) The period of a care board’s strategic plan—
- (a) must not exceed 3 years,
 - (b) begins on the date that the plan states it begins,
 - (c) ends on the earlier of—
 - (i) the date that the plan states it ends, or
 - (ii) the date that the period of the plan’s successor begins.
- (3) A newly established care board must seek to make its strategic plan within 12 months of its establishment.

Interpretation

10 Meaning of ethical commissioning strategy

References in this Chapter to a person’s ethical commissioning strategy in relation to a service is to the person’s strategy for ensuring that the person’s arrangements for providing the service best reflect the National Care Service principles.

CHAPTER 3

INFORMATION AND SUPPORT

*The National Care Service charter***11 The National Care Service charter**

- (1) The Scottish Ministers must—
- (a) prepare a charter (“the National Care Service charter”), and
 - (b) make it publicly available.
- (2) The charter is to contain—
- (a) a summary of the rights and responsibilities in relation to the National Care Service of—
 - (i) the individuals to whom the National Care Service provides services,
 - (ii) any individual who has a personal interest in the wellbeing of another individual to whom the National Care Service provides a service (for example a family member or a carer),
 - (iii) any other category of person whose rights and responsibilities in relation to the National Care Service the Scottish Ministers consider it appropriate to summarise in the charter,
 - (b) a description of the processes available for upholding the rights in relation to the National Care Service of the persons whose rights and responsibilities the charter summarises.
- (3) The charter may include any other information the Scottish Ministers consider appropriate.
- (4) Nothing in the charter is to—
- (a) give rise to any new rights,
 - (b) impose any new responsibilities, or
 - (c) alter in any way an existing right or responsibility.

12 Further provision about the charter

- (1) In preparing and reviewing the National Care Service charter, the Scottish Ministers must—
- (a) consult any person they consider appropriate,
 - (b) have particular regard to the importance of eliciting the views of—
 - (i) the individuals to whom the National Care Service provides services, and
 - (ii) the persons who provide services on behalf of the National Care Service.
- (2) The Scottish Ministers must lay before the Scottish Parliament a copy of—
- (a) the first version of the charter, and
 - (b) any new version resulting from their making changes following a review.

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(3) The Scottish Ministers must—

- (a) first review the charter within 5 years of a copy of the first version being laid before the Scottish Parliament, and
- (b) after that, review it within 5 years of the last review concluding.

(4) Following a review of the charter, the Scottish Ministers may make any changes to it that they consider appropriate.

(5) In the period before any regulations under a section in Chapter 6 have come into force, references in this section and section 11 to individuals to whom the National Care Service provides services are to be read as references to the individuals to whom the Scottish Ministers expect the National Care Service will provide services within 12 months.

(6) For the purposes of subsection (1), it is immaterial that anything done by way of consultation was done before the Bill for this Act was passed or after that but before this section comes into force.

Advocacy

13 Independent advocacy

The Scottish Ministers may by regulations make provision about the provision of independent advocacy services in connection with the services that the National Care Service provides.

Complaints

14 Complaints service

(1) The Scottish Ministers must provide a complaints service for—

- (a) receiving complaints about the services that the National Care Service provides, and
- (b) passing those complaints on to the appropriate person.

(2) Nothing in subsection (1) precludes the complaints service from dealing with other kinds of complaint.

(3) The appropriate person in relation to a complaint is the person who, in the opinion of the provider of the complaints service, is best placed to address the complaint.

(4) The Scottish Ministers—

- (a) must fulfil their duty under subsection (1) as soon as practicable, and
- (b) may do so by having the complaints service assume responsibility for dealing with complaints about different services at different times.

15 Dealing with complaints

(1) The Scottish Ministers may by regulations make provision about the handling of relevant complaints (including the remedies that are to be available).

- (2) A relevant complaint is a complaint about—
- (a) a service provided by the National Care Service,
 - (b) any other social service as defined by section 46 of the Public Services Reform (Scotland) Act 2010.
- 5 (3) Regulations under this section may in particular—
- (a) impose requirements (for example to produce documentation on request),
 - (b) create sanctions (civil or criminal) for those who fail to comply with the regulations' requirements.
- 10 (4) The Scottish Ministers may only lay draft regulations to which subsection (5) applies before the Scottish Parliament for approval with the consent of the Scottish Parliamentary Corporate Body.
- (5) This subsection applies to draft regulations under this section that would—
- (a) confer a function on a person listed in schedule 6 of the Public Services Reform (Scotland) Act 2010, or
 - 15 (b) modify or remove one of those persons' existing functions.

CHAPTER 4

SCOTTISH MINISTERS' POWERS TO INTERVENE

Powers in relation to care boards

16 Directions to care boards

- 20 (1) A care board must comply with any direction issued to it by the Scottish Ministers.
- (2) A direction under subsection (1)—
- (a) may be general or specific,
 - (b) may modify or revoke an earlier direction under subsection (1).

17 Removal of care board members

- 25 (1) The Scottish Ministers may by regulations remove the members of a care board if the Ministers are satisfied that the board has failed to carry out any of its functions.
- (2) The Scottish Ministers may only be satisfied that a care board has failed to carry out a function if an inquiry has been held to determine the facts relating to the alleged failure.
- 30 (3) An inquiry for the purpose of subsection (2) is to be held in whatever manner the Scottish Ministers consider appropriate.
- (4) For the avoidance of doubt, a reference to a care board's functions includes its function of complying with any direction issued to it under section 16.

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18 Transfer of care board's functions in an emergency

- (1) The Scottish Ministers may direct that a function of a care board is to be performed by another person if the Ministers are of the opinion that—
- (a) an emergency exists, and
 - (b) having a person other than the board perform the function is necessary in order to secure the function's effective performance.
- (2) A direction under subsection (1) is to specify the person who is to perform the function (which may be the Scottish Ministers).
- (3) A person directed under subsection (1) to perform a function must comply with the direction.
- (4) The Scottish Ministers—
- (a) may revoke a direction under subsection (1) at any time, and
 - (b) must do so as soon as practicable after they form the opinion—
 - (i) that the emergency in connection with which the direction was issued no longer exists, or
 - (ii) that it never existed.
- (5) A direction under subsection (1) is revoked when the Scottish Ministers have given notice to that effect to—
- (a) the care board whose function is concerned, and
 - (b) if the person charged with performing the function by the direction is not the Scottish Ministers, that person too.

19 Transfer of care board's functions due to service failure

- (1) The Scottish Ministers may direct that a function of a care board is to be performed by another person if the Ministers are of the opinion that the board has failed, is failing or is likely to fail—
- (a) to perform the function, or
 - (b) to perform it to a standard which the Ministers regard as acceptable.
- (2) A direction under subsection (1) is to specify the person who is to perform the function, but may only specify—
- (a) another care board, or
 - (b) the Scottish Ministers.
- (3) A person directed under subsection (1) to perform a function must comply with the direction.
- (4) Where a care board's function is performed by another person in accordance with a direction under subsection (1)—
- (a) the board is liable to the person for any expenses that the person reasonably incurs in performing the function, unless the direction states otherwise,
 - (b) anything done, or omitted, by the person in performing the function is to be regarded as having been done or omitted by the board,

(c) a third party who deals with the person in good faith and for value is entitled to assume that anything the person purports to do within the powers conferred by the direction is properly done within those powers.

(5) For the purposes of subsection (4)(a), a person's expenses in performing a function includes the cost of remunerating the person's staff for periods they spent performing the function.

(6) The Scottish Ministers may revoke a direction under subsection (1) at any time.

(7) A direction under subsection (1) is revoked when the Scottish Ministers have given notice to that effect to—

(a) the care board whose function is concerned, and

(b) if the person charged with performing the function by the direction is not the Scottish Ministers, that person too.

Powers to intervene with contractors

20 Emergency intervention order

(1) The court may, on an application by the Scottish Ministers, make an emergency intervention order.

(2) An emergency intervention order is an order designed to ensure that goods or services that are to be provided by a person ("the provider") to, or on behalf of, the National Care Service under an agreement are, so far as possible, provided without undue delay and to an appropriate standard.

(3) An emergency intervention order may—

(a) authorise a person nominated by the Scottish Ministers to—

(i) enter and occupy premises identified in the order,

(ii) direct and control the provider's operations so far as they relate to the affected supply,

(iii) do anything that the person considers necessary to ensure that the affected supply is provided without undue delay and to an appropriate standard,

(b) require the provider to comply with any direction in relation to the affected supply given by the person nominated by the Scottish Ministers,

(c) confer any other powers, or impose any other duties or prohibitions, that the court considers appropriate (for example, a prohibition on the provider disposing of assets).

(4) The court may make an emergency intervention order only if it is satisfied that it is reasonable for the Scottish Ministers to hold the opinion described by section 21(1) in relation to the affected supply.

(5) The court may make an emergency intervention order in the absence of the provider.

(6) If it makes an emergency intervention order, the court must specify in the order the period for which it has effect, which must not exceed 12 months (but see section 22(2)).

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(7) In this section—

“the affected supply” means the goods or services that the emergency intervention order in question is designed to ensure are provided without undue delay and to an appropriate standard,

“court” means the Court of Session or the sheriff.

21 Application for emergency intervention order

(1) The Scottish Ministers may apply for an emergency intervention order only if it is their opinion that—

(a) there is a failure, or an imminent risk of failure, in the provision of goods or services that are to be provided to, or on behalf of, the National Care Service under an agreement,

(b) that failure has caused, or is likely to cause, significant harm to the material wellbeing or safety of persons to whom the National Care Service provides services,

(c) the agreement under which the goods or services are to be provided offers no remedy that could effectively mitigate that harm.

(2) In subsection (1), reference to a failure in the provision of goods or services is to—

(a) their not being provided in accordance with the terms of the agreement under which they are to be provided, or

(b) their provision in accordance with the terms of that agreement no longer being adequate to fulfil the purpose for which the National Care Service entered into the agreement to have the goods or services provided.

22 Variation and revocation of emergency intervention order

(1) The court may on the application of the Scottish Ministers or the provider—

(a) vary the terms of an emergency intervention order,

(b) revoke an emergency intervention order.

(2) The court may vary an emergency intervention order to extend the period for which it has effect, but—

(a) may only do so once, and

(b) may not extend the period originally specified by more than 6 months.

(3) In this section, “court” and “provider” are to be construed in accordance with section 20.

CHAPTER 5

FUNCTIONS CONNECTED TO THE PROVISION OF CARE

23 Research

- (1) The Scottish Ministers and care boards may do any of the following in relation to research relevant to the services that the National Care Service provides—
- (a) conduct it,
 - (b) assist others in conducting it,
 - (c) give financial assistance in relation to it.
- (2) For the purposes of subsection (1)(c), “financial assistance” means grants and loans.
- (3) A person giving financial assistance under this section may attach conditions to it (including conditions as to repayment and the payment of interest).

24 Training

- (1) The Scottish Ministers and care boards may—
- (a) provide training courses for individuals to equip them with knowledge and skills relevant to providing services on behalf of the National Care Service,
 - (b) give a person a grant towards expenses incurred by the person in providing training for the purpose mentioned in paragraph (a),
 - (c) give to an individual undertaking training for the purpose mentioned in paragraph (a) (whether or not by way of a course provided under that paragraph) a grant towards any or all of the following—
 - (i) fees for the training,
 - (ii) expenses incurred in connection with the training,
 - (iii) living costs that arise during the training period.
- (2) A person giving a grant under this section may attach conditions to it (including conditions as to repayment and the payment of interest).

25 Support for other activities

- (1) The Scottish Ministers and care boards may give financial assistance to any person who is engaged in an activity connected to the services provided to individuals by the National Care Service.
- (2) Financial assistance may be given under subsection (1) in order that the recipient of it can, in turn, give financial assistance to another person engaged in an activity connected to the services provided to individuals by the National Care Service.
- (3) A person giving financial assistance under subsection (1) may attach conditions to it.
- (4) Where financial assistance is given under subsection (1) for the purpose mentioned in subsection (2), the conditions attached to it may include requirements about the conditions that the recipient must attach when the recipient uses the financial assistance to give assistance to another person.

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- (5) References in this section to conditions include conditions as to repayment and the payment of interest.
- (6) In this section, “financial assistance” means grants and loans.

26 Compulsory purchase

- (1) The Scottish Ministers or a care board may compulsorily acquire land that they require for the purpose of exercising a relevant function.
- (2) A compulsory acquisition by a care board under subsection (1) must be authorised by the Scottish Ministers.
- (3) Land may not be compulsorily acquired by virtue of subsection (1) if it is held or used by a Minister of the Crown or a department of the Government of the United Kingdom.
- (4) In this section—
 - (a) a relevant function—
 - (i) in the case of a care board, is any of its functions,
 - (ii) in the case of the Scottish Ministers, is any function conferred on them by virtue of this Part,
 - (b) references to acquiring land includes acquiring—
 - (i) any right or interest in or over land,
 - (ii) a servitude or other right in or over land by the creation of a new right.

CHAPTER 6

ALLOCATION OF CARE FUNCTIONS ETC.

Powers to transfer functions

27 Power to transfer functions from local authorities

For the purpose of fulfilling their duty under section 2, the Scottish Ministers may by regulations, wholly or partly, transfer to themselves or a care board a function conferred on a local authority by an enactment mentioned in schedule 3.

28 Power to bring aspects of healthcare into the National Care Service

For the purpose of fulfilling their duty under section 2, the Scottish Ministers may by regulations—

- (a) designate as a National Care Service function the function of their providing, or securing the provision of, a particular service under the National Health Service (Scotland) Act 1978,
- (b) wholly or partly transfer to themselves, or a care board, a function conferred on a health board or a special health board.

29 Power to re-organise the National Care Service

For the purpose of fulfilling their duty under section 2, the Scottish Ministers may by regulations wholly or partly transfer to—

- (a) themselves a function conferred on a care board,
- (b) a care board a function conferred on themselves by virtue of section 27, 28 or this section,
- (c) a local care board a function conferred on a special care board,
- (d) a special care board a function conferred on a local care board.

Duties in relation to transferring functions

30 Consultation before bringing children's and justice services into the National Care Service

- (1) This section applies in relation to regulations under section 27 that would transfer the function of providing—
 - (a) a children's service, or
 - (b) a justice service.
- (2) Before making regulations to which this section applies, the Scottish Ministers must consult publicly about the function transfer that the proposed regulations would effect.
- (3) When laying a draft Scottish statutory instrument containing regulations to which this section applies before the Scottish Parliament for approval by resolution, the Scottish Ministers must also lay before the Parliament a summary of—
 - (a) the process by which they consulted in relation to the function transfer that would be effected by the regulations contained in the draft instrument, and
 - (b) the responses they received to that consultation.
- (4) In this section, "a children's service" means a service that is provided to, or in relation to (either or both)—
 - (a) persons under 18 years of age,
 - (b) persons 18 years of age or over on account of a local authority having provided a service to, or in relation to, them when they were under 18 years of age.
- (5) In this section, the reference to "a justice service" is to be construed as follows—
 - (a) a justice service is a service that is provided only to, or in relation to, persons who are or have been—
 - (i) in police custody having been arrested in respect of an offence,
 - (ii) officially accused of committing an offence,
 - (iii) the accused in criminal proceedings,
 - (iv) found guilty in criminal proceedings,
 - (b) despite paragraph (a), no service provided in exercise of a function conferred by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 is a justice service.

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- (6) In subsection (5), “officially accused” and “police custody” have the meanings given in (respectively) sections 63 and 64 of the Criminal Justice (Scotland) Act 2016.

Further provision about function transfers

31 Transfers of staff

- (1) In connection with the transfer of a function from one person (“the original function holder”) to another (“the new function holder”), the Scottish Ministers may by regulations transfer individuals from the employment of the original function holder into the employment of the new function holder.
- (2) But regulations under subsection (1) may not transfer a person from the employment of a health board or a special health board into the employment of another person.
- (3) Regulations under subsection (1) may identify the staff to be transferred by name or description.
- (4) A transfer effected by virtue of subsection (1) is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (5) In this section, a reference to the transfer of a function is to a transfer by virtue of a section in this Chapter.

32 Transfers of property and liabilities etc.

- (1) In connection with the transfer of a function from one person (“the original function holder”) to another (“the new function holder”), the Scottish Ministers may by regulations—
- (a) transfer to, and vest in, the new function holder any of the property (including rights) and liabilities of the original function holder,
- (b) provide that anything done by, or on behalf of, the original function holder is to be treated as having been done by, or on behalf of, the new function holder,
- (c) provide that any reference to the original function holder in a contract, deed or other document giving rise to a legal obligation, is to be read as a reference to the new function holder,
- (d) provide that any legal proceedings raised by, or against, the original function holder are to be continued by, or against the new function holder.
- (2) In this section, the reference to the transfer of a function is to a transfer by virtue of a section in this Chapter.

33 Interpretation of expressions about functional transfers

- (1) In this Chapter, a reference to—
- (a) transferring a function wholly is to transferring it so that it ceases to be exercisable for any purpose by the person on whom it was conferred before the transfer,
- (b) transferring a function partly is to transferring it so that for some purposes it is exercisable by the Scottish Ministers or a care board while for others it remains exercisable by the person on whom it was conferred before the transfer,

(c) a function being conferred includes its being conferrable (for example by a court order),

(d) transferring a function from person A to person B includes making a function that is conferrable on person A conferrable on person B.

5 (2) In subsection (1)(a) and (b), a reference to a function's being exercisable for a purpose includes its being conferrable for a purpose.

CHAPTER 7

FINAL PROVISIONS FOR PART 1

34 Consequential modifications

10 Schedule 4 makes modifications in consequence of this Part.

35 Interpretation of Part 1

(1) This section makes provision for the purposes of interpreting this Part.

(2) The National Care Service is comprised by—

(a) care boards, and

15 (b) the Scottish Ministers insofar as they are exercising a function that is—

(i) conferred on them by virtue of this Part, or

(ii) designated as a National Care Service function by virtue of regulations under section 28.

20 (3) References (however expressed) to a service provided by the National Care Service are to a service that a person comprising the National Care Service provides in exercise of a function that is—

(a) conferred by virtue of regulations under section 27, 28, or 29, or

(b) designated as a National Care Service function by virtue of regulations under section 28.

25 (4) References (however expressed) to providing a service include securing its provision.

PART 2

HEALTH AND SOCIAL CARE INFORMATION

36 Care records

30 (1) The Scottish Ministers may by regulations provide for a scheme that allows information to be shared in order that services can be provided efficiently and effectively by and on behalf of—

(a) the National Care Service,

(b) the National Health Service.

(2) Regulations under subsection (1) may in particular—

35 (a) require one person to supply information to another person,

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- (b) create sanctions (civil or criminal) for those who fail to comply with the regulations' requirements.

(3) In this section—

“National Care Service” means—

- (a) a care board,
- (b) the Scottish Ministers exercising a function conferred on them by virtue of—
 - (i) Part 1,
 - (ii) section 58 of the Regulation of Care (Scotland) Act 2001,

“National Health Service” means—

- (a) a health board,
- (b) a special health board,
- (c) the Common Services Agency for the Scottish Health Service,
- (d) Healthcare Improvement Scotland,
- (e) the Scottish Ministers exercising a function conferred on them by virtue of the National Health Service (Scotland) Act 1978.

37 Information standard

- (1) An information standard is a document, produced by the Scottish Ministers, setting out how certain information is to be processed.
- (2) The Scottish Ministers must make any information standard they produce publicly available.
- (3) A person to whom subsection (4) applies must—
 - (a) comply with any information standard, and
 - (b) include in any agreement for the provision of a service on the person's behalf a requirement that the other party comply with any information standard.
- (4) This subsection applies to—
 - (a) a care board,
 - (b) a health board,
 - (c) a special health board,
 - (d) the Common Services Agency for the Scottish Health Service,
 - (e) Healthcare Improvement Scotland,
 - (f) the Scottish Ministers, but only insofar as they are exercising a function conferred on them by virtue of—
 - (i) Part 1,
 - (ii) section 58 of the Regulation of Care (Scotland) Act 2001,
 - (iii) the National Health Service (Scotland) Act 1978.

- (5) The references to an information standard in subsections (2) and (3) do not include an information standard that the Scottish Ministers have withdrawn.
- (6) In this section, “processed” includes doing any of the things referred to in paragraphs (a) to (f) of section 3(4) of the Data Protection Act 2018.

5

PART 3

REFORMS CONNECTED TO DELIVERY AND REGULATION OF CARE

Carers

38 Rights to breaks for carers

10

- (1) The Carers (Scotland) Act 2016 is modified by subsections (2) to (10).
- (2) After section 8(2) (adult carers: identification of outcomes and needs for support) insert—
 - “(1) A responsible local authority must identify, as a personal outcome that is relevant to an adult carer, the outcome that the adult carer is able to take sufficient breaks from providing care for the cared-for person.
 - (2) Where an adult carer is not able to take sufficient breaks from providing care for the cared-for person, a responsible local authority must identify the need for support to enable the adult carer to take sufficient breaks from providing that care.”.
- (3) In section 9(1) (content of adult carer support plan)—
 - (a) after paragraph (h) insert—
 - “(ha) if the adult carer’s identified needs include the need for support to enable the adult carer to take sufficient breaks from providing care by virtue of section 8(4), information about the support which the responsible local authority provides or intends to provide to the adult carer to meet that need,”.
 - (b) in paragraph (j), after “criteria” insert “(except in the case of an identified need as mentioned in paragraph (ha))”.
 - (c) paragraph (k) is repealed.
- (4) After section 14(2) (young carers: identification of outcomes and needs for support) insert—
 - “(3) A responsible authority must identify, as a personal outcome that is relevant to a young carer, the outcome that the young carer is able to take sufficient breaks from providing care for the cared-for person.
 - (4) Where a young carer is not able to take sufficient breaks from providing care for the cared-for person, a responsible authority must identify the need for support to enable the young carer to take sufficient breaks from providing that care.”.
- (5) In section 15(1) (content of young carer statement)—
 - (a) after paragraph (i) insert—

“*(ia)* if the young carer’s identified needs include the need for support to enable the young carer to take sufficient breaks from providing care by virtue of section 14(4), information about the support which the responsible local authority provides or intends to provide to the young carer to meet that need,”,

(b) in paragraph *(k)*, after “*criteria*” insert “*(except in the case of an identified need as mentioned in paragraph (ia))*”,

(c) paragraph *(l)* is repealed.

(6) In section 21 (duty to set local eligibility criteria)—

(a) in subsection (2), for “*identified*” substitute “*relevant*”,

(b) after subsection (4) insert—

“*(5)* In subsection (2), “*relevant needs*” means identified needs other than any need for support to enable carers to take sufficient breaks from providing care that is identified by virtue of section 8(4) or 14(4).”.

(7) In section 23 (national eligibility criteria)—

(a) in subsection (2), for “*identified*” substitute “*relevant*”,

(b) in subsection (3)(c), for “*24(3)*” substitute “*24(2) and (4)*”,

(c) after subsection (4) insert—

“*(5)* In subsection (2), “*relevant needs*” means identified needs other than any need for support to enable carers to take sufficient breaks from providing care that is identified by virtue of section 8(4) or 14(4).”.

(8) In section 24 (duty to provide support)—

(a) in subsection (1)(a), for the words from “*section*” to “*caring*” substitute “*this section in order to enable the carer to take a break from providing care for the cared-for person*”,

(b) in subsection (2), for “*eligible needs*” substitute “*relevant needs that meet the local eligibility criteria*”,

(c) subsection (3) is repealed,

(d) in subsection (4)—

(i) in paragraph (a), for “*the carer’s eligible needs*” substitute “*any relevant needs of the carer that meet the local eligibility criteria*”,

(ii) in paragraph (b), for “*the carer’s other identified needs*” substitute “*any relevant needs of the carer that do not meet the local eligibility criteria*”,

(e) after subsection (4) insert—

“*(4A)* The responsible local authority must also provide support to the carer to meet any need for support to enable the carer to take sufficient breaks from providing care for the cared-for person that is identified by virtue of section 8(4) or 14(4).”.

(f) in subsection (5)—

(i) in the opening words, for “Subsection (4)(a) applies” substitute “Subsections (4)(a) and (4A) apply”,

(ii) in paragraph (a), for “eligible needs” substitute “identified needs in question”,

(iii) in paragraph (b), for “eligible needs” substitute “identified needs in question”,

(g) in subsection (6), for the words from “the”, in the first place where it occurs, to the end substitute ““relevant needs”, in relation to a carer, means the carer’s identified needs other than any need for support to enable the carer to take sufficient breaks from providing care that is identified by virtue of section 8(4) or 14(4)”.

(9) In section 25 (provision of support to carers: breaks from caring)—

(a) subsection (1) is repealed,

(b) for subsection (2) substitute—

“(2) The Scottish Ministers may by regulations make further provision in connection with the support to be provided to a carer under section 24(4A).

(3) Regulations under subsection (2) may in particular make provision about—

(a) the meaning of any reference to sufficient breaks in this Act,

(b) standards or criteria in relation to the sufficiency of such breaks (including the nature, frequency or duration of breaks),

(c) forms of support that may enable a carer to take such breaks,

(d) where the support is the provision of care for the cared-for person, the role of the cared-for person in relation to how the care is provided.”,

(c) in subsection (3), for “by virtue of subsection (1)” substitute “under section 24(4A)”,

(d) in subsection (4)—

(i) for “by virtue of subsection (1)” substitute “under section 24(4A)”,

(ii) for “caring” substitute “providing care”,

(e) in subsection (5), for “as a break from caring” substitute “to enable a carer to take a break from providing care for the cared-for person”.

(10) In section 31 (duty to prepare local carer strategy)—

(a) after subsection (2)(h) insert—

“(ha) plans to promote a variety of providers of support to relevant carers and to promote the variety of support provided,”,

(b) after subsection (2) insert—

“(2A) In subsection (2), references to support to relevant carers include references to support to enable carers to take a break from providing care for cared-for persons.”.

(11) The Social Care (Self-directed Support) (Scotland) Act 2013 is modified by subsection (12).

National Care Service (Scotland) Bill

Part 3—Reforms connected to delivery and regulation of care

(12) In section 7(1) (choice of options: adult carers and young carers), after “24(4)” insert “or (4A)”.

(13) The Social Work (Scotland) Act 1968 is modified by subsection (14).

(14) In section 87 (charges that may be made for services and accommodation)—

(a) in subsection (1), after “24(4)” insert “or (4A)”,

(b) in subsection (1A)(a), after “24(4)” insert “or (4A)”.

39 Enactments relating to carers: minor modifications

(1) The Carers (Scotland) Act 2016 is modified by subsection (2).

(2) Sections 6(6) and 12(8) are repealed.

(3) The Social Care (Self-directed Support) (Scotland) Act 2013 is modified by subsection (4).

(4) In section 7(1), the words “an adult” in the first place where they occur are repealed.

Care homes

40 Visits to or by care home residents

(1) The Public Services Reform (Scotland) Act 2010 is modified as follows.

(2) In section 78 (regulations: care services), after subsection (2) insert—

“(2A) The Scottish Ministers must exercise the power under subsection (2) to require providers of care home services to comply with any direction (“visiting direction”) issued by the Ministers about either or both of—

(a) visits to residents of accommodation provided by a care home service,

(b) visits by residents of accommodation provided by a care home service.

(2B) The Scottish Ministers—

(a) must, before issuing a visiting direction, consult Public Health Scotland and any other person the Scottish Ministers consider appropriate,

(b) may vary or revoke a visiting direction.”.

Procurement

41 Reserving right to participate in procurement by type of organisation

(1) The Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446) are modified as follows.

(2) After regulation 76 insert—

“Reserved contracts for certain services

76A—(1) Contracting authorities may reserve to qualifying organisations the right to participate in procedures for the award of reservable contracts.

(2) Where a contracting authority exercises the power of reservation conferred by paragraph (1), the call for competition must make reference to this regulation.

(3) The power of reservation conferred by paragraph (1) is without prejudice to the power conferred by regulation 21.

(4) A reservable contract is a contract that—

- (a) is to be awarded in accordance with this Section,
- (b) has a maximum duration of 5 years or less,
- (c) is for the provision of a service, or more than one service, to or on behalf of the National Care Service (as defined by section 35 of the National Care Service (Scotland) Act 2023), and
- (d) is exclusively for a service, or more than one service, covered by one of the following CPV codes: 75200000-8, 75231200-6, 75231240-8, 79611000-0, 79622000-0, 79624000-4, 79625000-1, a code in the range beginning with 85000000-9 and ending with 85323000-9, 98133100-5, 98133000-4, 98200000-5, 98500000-8 and a code in the range beginning with 98513000-2 and ending with 98514000-9.

(5) An organisation is a qualifying organisation if—

- (a) its objective is the pursuit of a public service mission linked to the delivery of services referred to in paragraph (4)(d),
- (b) profits are reinvested with a view to achieving the organisation's objective, and any distribution of profits is based on participatory considerations,
- (c) the structures of management or ownership of the organisation are (or will be if and when it performs the contract in question)—
 - (i) based on employee ownership or participatory principles, or
 - (ii) such that they require the active participation of employees, users or stakeholders, and
- (d) the organisation has not been awarded, pursuant to this regulation, a contract for the services concerned by the contracting authority concerned within the past 3 years.

(6) The Scottish Ministers may by regulations change—

- (a) the CPV codes specified in paragraph (4)(d),
- (b) the definition of qualifying organisation.

(7) The power conferred by paragraph (6) may be exercised to make different provision for different purposes.”.

Regulation of social services

42 Cancellation of care service registration

(1) The Public Services Reform (Scotland) Act 2010 is modified as follows.

(2) In section 64 (cancellation of registration)—

- (a) in subsection (1), the words “, at any time after the expiry of the period specified in an improvement notice given in respect of a care service,” are repealed,
- (b) after subsection (1) insert—

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Part 4—Final provisions

“(1A) The power in subsection (1) may be exercised—

- (a) at any time after the expiry of the period specified in an improvement notice given in respect of the care service, or
- (b) at any time in circumstances which may be prescribed.”.

43 Assistance in inspections from Healthcare Improvement Scotland

- (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.
- (2) After section 57 insert—

“57A Assistance in inspections from Healthcare Improvement Scotland

- (1) Healthcare Improvement Scotland may assist SCSWIS in carrying out an inspection under this Part.
- (2) Healthcare Improvement Scotland may charge a reasonable fee determined by it for any assistance provided by virtue of subsection (1).”.

PART 4

FINAL PROVISIONS

44 Interpretation

In this Act—

“health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,

“special health board” means a board constituted under section 2(1)(b) of that Act.

45 Ancillary provision

The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

46 Regulation-making powers

- (1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes and areas.
- (2) Regulations under—
 - (a) the following provisions may modify any enactment other than this Act—
 - (i) section 13,
 - (ii) section 15,
 - (iii) any section in Chapter 6 of Part 1,
 - (b) section 45 may modify any enactment including this Act.

- (3) Regulations under any of the following provisions are subject to the affirmative procedure: sections 4, 13, 15, 27, 28, 29 and 36.
- (4) Regulations under any of the following provisions are subject to the negative procedure—
- 5 (a) sections 31 and 32,
- (b) paragraph 15 of schedule 1.
- (5) Regulations under section 45—
- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but
- (b) otherwise, are subject to the negative procedure.
- 10 (6) Regulations under paragraph 11 of schedule 1—
- (a) are subject to the affirmative procedure if no regulations have previously been made in exercise of the power, but
- (b) otherwise, are subject to the negative procedure.

47 Commencement

- 15 (1) This Part comes into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

48 Short title

The short title of this Act is the National Care Service (Scotland) Act 2023.

National Care Service (Scotland) Bill
Schedule 1—Care boards: constitution and operation
Part 1—Status

SCHEDULE 1
(introduced by section 4(5)(a))

CARE BOARDS: CONSTITUTION AND OPERATION

PART 1

STATUS

Incorporation

1 A care board is a body corporate.

Exclusion of Crown status

2 A care board—

- (a) is not a servant or agent of the Crown, and
- (b) does not enjoy any status, immunity or privilege of the Crown.

PART 2

POWERS

General powers

3 A care board may do anything which appears to it to be—

- (a) necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
- (b) otherwise conducive to the performance of its functions.

PART 3

PROCEDURE

Committees

4 (1) A care board may establish committees and sub-committees.

(2) The membership of a committee or sub-committee of a care board may include persons who are not members of the board.

(3) A care board may, in accordance with a determination by the Scottish Ministers—

- (a) pay each member of a committee or sub-committee remuneration and allowances (including expenses), and
- (b) pay, or make arrangements for the payment of, allowances and gratuities to, or in respect of, any person who is or has been a member of a committee or sub-committee.

(4) The arrangements referred to in sub-paragraph (3)(b) may include—

- (a) making payments towards the provision of those allowances and gratuities,

(b) providing and maintaining schemes for the payment of those allowances and gratuities to, or in respect of, any person who is or has been a member of a committee or sub-committee.

(5) The reference in sub-paragraph (3) to allowances and gratuities includes allowances and gratuities by way of compensation for loss of office as a member of a committee or sub-committee.

Regulation of procedure

A care board may regulate its own procedure (including quorum) and that of its committees and sub-committees.

Authority to perform functions

(1) A care board may authorise any of its—

- (a) members,
- (b) committees,
- (c) sub-committees, or
- (d) staff,

to perform such of its functions, and to such extent, as it may determine.

(2) The giving of authority under sub-paragraph (1) by a care board does not—

- (a) affect the board's responsibility for the performance of its functions, or
- (b) prevent the board from performing the function itself.

Validity of things done

The validity of anything done by a care board, its committees or sub-committees is not affected by—

- (a) a vacancy in its membership,
- (b) a defect in the appointment of a member,
- (c) the disqualification of a member after appointment.

PART 4

ACCOUNTABILITY

Accounts and audit

A care board must—

- (a) keep proper accounts and accounting records,
- (b) prepare in respect of each financial year a statement of accounts, and
- (c) send a copy of the statement to the Auditor General for Scotland for auditing.

National Care Service (Scotland) Bill
Schedule 1—Care boards: constitution and operation
Part 5—Members

Annual report

- 9 A care board must, after each financial year—
- (a) prepare and make publicly available a report of its activities during the year, and
 - (b) send a copy of the report to the Scottish Ministers.

5

PART 5

MEMBERS

Board composition

- 10 A care board is to consist of—
- (a) a member to chair it, and
 - 10 (b) not fewer than the minimum, and not more than the maximum, number of ordinary members (see section 4(4)(a)(iii)).

Appointment of members

- 11 (1) The Scottish Ministers are to appoint for each care board—
- (a) the chairing member, and
 - 15 (b) the ordinary members.
- (2) Appointments are to be made in accordance with regulations made by the Scottish Ministers.
- (3) A person may be appointed more than once.
- (4) A person who is disqualified from being a member may not be appointed (see paragraph 15).
- 20 (5) Regulations under sub-paragraph (2) may in particular—
- (a) specify qualifications and experience that a person must have in order to be appointed,
 - (b) require appointments to be made so that a board includes a member who fulfils criteria specified in the regulations,
 - 25 (c) require that regard is had when making appointments to the desirability of a board including a member who fulfils criteria specified in the regulations.
- (6) Criteria, for the purpose of sub-paragraph (5)(b) and (c), may include criteria about a person's—
- 30 (a) having certain qualifications or experience,
 - (b) holding a certain office,
 - (c) being representative of certain interests.

Members' tenure and other terms and conditions

- 12 (1) A person's membership of a care board continues until the end of the period of appointment (subject to paragraph 14).

35

- (2) In sub-paragraph (1), “the period of appointment” means the period specified by the Scottish Ministers on appointing the person as a member.
- (3) The Scottish Ministers may determine other terms and conditions of membership, in relation to matters not covered by this schedule.

5 *Members’ remuneration, allowances and pensions*

13 (1) The Scottish Ministers may—

- (a) pay members of a care board remuneration and allowances (including expenses),
- (b) pay, or make arrangements for the payment of, pensions, allowances and gratuities to, or in respect of, any person who is or has been a member of a care board.

10 (2) The arrangements referred to in sub-paragraph (1)(b) may include—

- (a) making payments towards the provision of those pensions, allowances and gratuities,
- (b) providing and maintaining schemes for the payment of those pensions, allowances and gratuities.

15 (3) The reference in sub-paragraph (1)(b) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.

Early termination of membership

14 (1) A person’s membership of a care board ends if—

- (a) the person resigns by written notice given to the Scottish Ministers,
- 20 (b) the person becomes disqualified from being a member (see paragraph 15),
- (c) the Scottish Ministers give the person written notice that the person is removed from the board, or
- (d) the Scottish Ministers remove the person as a member by virtue of section 17.

25 (2) The Scottish Ministers may remove a board member by virtue of sub-paragraph (1)(c) only if they consider that the member is—

- (a) unfit to continue to be a member, or
- (b) unable to perform the member’s functions.

Disqualification from membership

15 (1) A person is disqualified from being a member of a care board if the person is—

- 30 (a) disqualified from being a member by virtue of section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000,
- (b) disqualified from being the director of a company registered under the Companies Act 2006 in Great Britain.

35 (2) The Scottish Ministers may by regulations modify this paragraph to add or remove descriptions of persons disqualified from being a member of a care board.

(3) Regulations under sub-paragraph (2) may not repeal sub-paragraph (1)(a).

National Care Service (Scotland) Bill

Schedule 2—Care boards: application of public authorities legislation

PART 6

STAFF

Chief executive

16 (1) A care board is to have a chief executive.

5 (2) The chief executive is a member of the board's staff.

(3) The Scottish Ministers are to appoint the chief executive of each board.

Other staff

17 A care board may appoint staff.

Staff terms and conditions

10 18 Staff appointed by a care board are appointed on such terms and conditions as the Scottish Ministers determine.

Staff pensions, allowances and gratuities

19 (1) A care board may pay, or make arrangements for the payment of, pensions, allowances and gratuities to, or in respect of, any person who is or has been a member of its staff.

15 (2) But a care board may not make those payments or arrangements without the Scottish Ministers' approval.

(3) The arrangements referred to in sub-paragraph (1) may include—

(a) making payments toward the provision of pensions, allowances and gratuities,

20 (b) providing and maintaining schemes for the payment of pensions, allowances and gratuities.

(4) The reference in sub-paragraph (1) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.

SCHEDULE 2

(introduced by section 4(5)(b))

25 **CARE BOARDS: APPLICATION OF PUBLIC AUTHORITIES LEGISLATION**

Ethical Standards in Public Life etc. (Scotland) Act 2000

1 (1) The Ethical Standards in Public Life etc. (Scotland) Act 2000 is modified as follows.

(2) In schedule 3, after the entry relating to the British Waterways Board insert—

“a care board”.

30 *Scottish Public Services Ombudsman Act 2002*

2 (1) The Scottish Public Services Ombudsman Act 2002 is modified as follows.

(2) In schedule 2, after paragraph 6 insert—

“Care service

6A Any care board.”.

Freedom of Information (Scotland) Act 2002

3 (1) The Freedom of Information (Scotland) Act 2002 is modified as follows.

5 (2) In schedule 1, after paragraph 61B insert—

“61C A care board.”.

Public Appointments and Public Bodies etc. (Scotland) Act 2003

4 (1) The Public Appointments and Public Bodies etc. (Scotland) Act 2003 is modified as follows.

10 (2) In schedule 2, after the entry relating to the Skills Development Scotland Co. Limited insert—

“any care board”.

Public Services Reform (Scotland) Act 2010

5 (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.

15 (2) In schedule 5, after the entry relating to Caledonian Maritime Assets Ltd insert—

“any care board”.

(3) In schedule 8, after the entry relating to Caledonian Maritime Assets Ltd insert—

“any care board”.

Public Records (Scotland) Act 2011

20 6 (1) The Public Records (Scotland) Act 2011 is modified as follows.

(2) In the schedule, after the entry relating to Caledonian Maritime Assets Ltd insert—

“15A Care boards”.

Procurement Reform (Scotland) Act 2014

7 (1) The Procurement Reform (Scotland) Act 2014 is modified as follows.

25 (2) In the schedule, before paragraph 16 insert—

“A care board”.

Community Empowerment (Scotland) Act 2015

8 (1) The Community Empowerment (Scotland) Act 2015 is modified as follows.

(2) In section 13(2), after paragraph (a) insert—

30 “(aa) any local care board (as defined in section 4(3) of the National Care Service (Scotland) Act 2023) the area of responsibility of which is the

same as, or to any extent either includes or is included by, the area of the local authority.”.

(3) In schedule 1—

(a) after the entry beginning “Any integration joint board” insert—

“Any local care board (as defined in section 4(3) of the National Care Service (Scotland) Act 2023) the area of responsibility of which is the same as, or to any extent either includes or is included by, the area of the local authority”,

(b) after the entry relating to the Skills Development Scotland Co. Limited insert—

“Any special care board (as defined in section 4(3) of the National Care Service (Scotland) Act 2023) that provides services, or on behalf of which services are provided, within the area of the local authority”.

(4) In schedule 3, after the entry relating to British Waterways Board insert—

“A care board”.

British Sign Language (Scotland) Act 2015

(1) The British Sign Language (Scotland) Act 2015 is modified as follows.

(2) In the schedule, after the entry relating to Audit Scotland insert—

“A care board.”.

Gender Representation on Public Boards (Scotland) Act 2018

(1) The Gender Representation on Public Boards (Scotland) Act 2018 is modified as follows.

(2) In schedule 1, after the entry relating to Caledonian Maritime Assets Limited insert—

“A care board”.

SCHEDULE 3
(introduced by section 27)

ENACTMENTS GIVING RISE TO TRANSFERABLE LOCAL AUTHORITY FUNCTIONS

National Assistance Act 1948

Matrimonial Proceedings (Children) Act 1958

Social Work (Scotland) Act 1968

Children Act 1975

Local Government and Planning (Scotland) Act 1982, section 24

Health and Social Services and Social Security Adjudications Act 1983, Part 7

Foster Children (Scotland) Act 1984

Children (Scotland) Act 1995

Criminal Procedure (Scotland) Act 1995

Adults with Incapacity (Scotland) Act 2000

Mental Health (Care and Treatment) (Scotland) Act 2003

Management of Offenders etc. (Scotland) Act 2005

Adoption and Children (Scotland) Act 2007

5 Adult Support and Protection (Scotland) Act 2007

Children's Hearings (Scotland) Act 2011

Social Care (Self-directed Support) (Scotland) Act 2013

Children and Young People (Scotland) Act 2014

Human Trafficking and Exploitation (Scotland) Act 2015

10 Criminal Justice (Scotland) Act 2016

Carers (Scotland) Act 2016

Age of Criminal Responsibility (Scotland) Act 2019

Management of Offenders (Scotland) Act 2019

SCHEDULE 4

15 *(introduced by section 34)*

MODIFICATIONS IN CONNECTION WITH PART 1

Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

1 (1) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is modified as follows.

20 (2) In section 1—

(a) in subsection (1), after paragraph (f) insert—

“(g) by the Scottish Ministers or a care board under section 26(1) of the National Care Service (Scotland) Act 2023.”,

(b) in subsection (2A), after “Water” insert “or a care board”.

25 *Local Government (Scotland) Act 1973*

2 (1) The Local Government (Scotland) Act 1973 is modified as follows.

(2) After section 82 insert—

“Social care

82A Power to provide services for National Care Service

30 (1) A local authority may enter into a contract to provide, or assist in providing a relevant service.

(2) A relevant service is a service provided in exercise of a function transferred, wholly or partly, from a local authority by virtue of section 27 of the National Care Service (Scotland) Act 2023.”.

National Care Service (Scotland) Bill

33

Schedule 4—Modifications in connection with Part 1

Public Services Reform (Scotland) Act 2010

3 (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.

(2) In section 14, after subsection (5) insert—

“(5A) An order under this section may not transfer a function that may be transferred by regulations under section 28 of the National Care Service (Scotland) Act 2023.”.

5

National Care Service (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to establish the National Care Service; to make provision about the processing of health and social care information; to make provision about the delivery and regulation of social care; and for connected purposes.

Introduced by: Humza Yousaf
On: 20 June 2022
Bill type: Government Bill

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SOCIAL WORK & HEALTH POLICY DEVELOPMENT AND SCRUTINY PANEL

CONTRIBUTIONS POLICY FOR ADULT NON-RESIDENTIAL SOCIAL CARE

REPORT BY HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

The purpose of the report is to inform the Social Work & Health PDSP of the changes made to the contributions policy for adult non-residential social care, which requires to be reviewed on an annual basis.

B. RECOMMENDATION

The panel is asked to note the proposed changes to the Contributions Policy which is intended to be submitted to the Council Executive for approval.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none"> • Focusing on our customers' needs • Being honest, open and accountable • Making best use of resources • Working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>Relevant legislation includes:</p> <ul style="list-style-type: none"> • Social Work (Scotland) Act 1968 • Community Care and Health (Scotland) Act 2002 • Mental Health (Care and Treatment) (Scotland) Act 2003 • Social Care (Self-directed Support) (Scotland) Act 2013 • The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2018 • COSLA National Strategy and Guidance – Charges applying to Non-residential Social Care Services 2022/23
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	The policy is predicated on maintaining performance wherever possible, focussing delivery of services to meet the council's priorities and statutory duties.
V Relevance to Single Outcome Agreement	<p>People most at risk are protected and supported to achieve improved life chances</p> <p>Older people are able to live independently in the community with an improved quality of life</p>

		We live longer, healthier lives and have reduced health inequalities.
VI	Resources - (Financial, Staffing and Property)	No additional cost – within existing resources The revenue budget for 2022/23 agreed by the council on 15 February 2022 contained updated net income budget of £1,439,000
VII	Consideration at PDSP	The Contributions Policy is reviewed annually and reported to the PDSP
VIII	Other consultations	Internal engagement with, Financial Management Unit, Benefits, Advice Shop and Social Policy

D. TERMS OF REPORT

D.1 BACKGROUND

The implementation of the Contribution policy for non-residential social care was agreed by the Council Executive on 11 September 2018 and charging came into effect on 1 October 2018 for existing users of social care and 1 April 2019 for new service users. Approval of the contributions policy was a major shift for the delivery of adult social care in West Lothian but brought West Lothian into line with the majority of other local authorities.

It was agreed the policy would be reviewed and updated annually in line with COSLA National Strategy and Guidance – Charges applying to Non-residential Social Care Services. This review is updated with the 2022/2023 charges.

The Contributions Policy Working Group was established as an operational governance group to oversee policy developments and to determine actions that should be taken in order to achieve objectives such as ensuring annual timescales are met with financial re-assessments. The group consists of officers from Social Policy, FMU, Advice Shop and the Anti-Poverty Service and they meet on a monthly basis. The meetings provide a forum for issue resolution to occur in a timely manner.

The contributions policy applies to care plans regardless of the Self Directed Support (SDS) option or service chosen to meet assessed eligible needs and outcomes. Personal care services remain free for all adults and older people.

The Contributions Policy includes a range of measures to help support people including all individuals having access to a personal income check and further customised advice and support as appropriate from the Advice Shop.

In 2021/22, as a result of the contribution policy 307 individuals underwent an income maximisation check and as a result income was maximised by £447,512.43.

D.2 POLICY CHANGES

The West Lothian Contributions Working Group confirmed there are no major or legislative changes that would affect the Policy for 2022-2023

The new Scottish Government benefit Adult Disability Payment (ADP) replaces the UK Government's Personal Independence Payment (PIP) and provides financial support to people aged between 16 and state pension age, who are disabled, have a long-term health condition or have a terminal illness.

People already receiving PIP and Disability Living Allowance do not need to make an application for Adult Disability Payment. These existing awards will transfer automatically from the DWP to Social Security Scotland. Cases will transfer in stages starting from this summer and this process is expected to be completed by the end of 2025.

The new ADP benefit is being introduced in West Lothian from 29/08/22. The benefit effectively mirrors the current PIP entitlement and [COSLA Social Care Charging Guidance-2022-2023](#) (section 6.12 and Annex C) document outlines that this should be treated in the same way as PIP and other disability assistance.

COSLA confirmed there are no legislative or major changes to the COSLA National Strategy and Guidance.

D.3.1 SUMMARY OF PROPOSED CHANGES TO THE POLICY

- All income and personal allowance amounts have been updated to comply with the CoSLA National Strategy and Guidance: Charges applying to Non-residential Social Care Services 2022/23. This change is updated annually.
- The paragraph 1.10 in the previous policy regarding the impact of Covid 19 has been removed as it is no longer applicable
- The implementation of the new ADP benefit has been added in part 4.7 **Disregarded Income**:
 - Adult Disability Payment (ADP) (Mobility Component)
 - Enhanced rate of (ADP) Adult Disability Payment (Daily Living Component) when the person is not receiving night time services. Therefore only including the standard rate as income
- The non-residential social care examples have been updated with the 2022/23 allowances

E. CONCLUSION

The revised Policy on Contributions for Non-Residential Social Care Services has been updated in partnership with internal partners. There have been no legislative or major changes made to the policy and the policy has been updated to reflect the 2022/2023 CoSLA social care charging amounts.

F. BACKGROUND REFERENCES

CoSLA National Strategy and Guidance: Charges Applying to non-residential Social Care Services 2022/23

Appendices/Attachments:

Appendix 1 – Proposed amended Contributions Policy for Non-Residential Social Care

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JO MACPHERSON
HEAD OF SOCIAL POLICY
18 August 2022

Data Label: PUBLIC

Appendix 1

West Lothian Council

ADULT SOCIAL CARE

POLICY ON CONTRIBUTIONS FOR NON-RESIDENTIAL SOCIAL CARE SERVICES 2022-2023

Approved: September 2022

Next Review date: March 2023

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1. INTRODUCTION

- 1.1 West Lothian Council supports individuals to live at home independently, safely and for as long as possible. To help us continue providing social care to as wide a range of individuals as possible everyone who undertakes an outcome based assessment of needs will be financially assessed to determine whether they should make a financial contribution towards the cost of their assessed non- residential care and support services. Contributions towards the cost of an individual's eligible non-residential care and support will be an important part of the council's income and will help to maintain and develop social care services.
- 1.2 A contribution towards the cost of an eligible care and support plan may apply if someone receives services from the council now or in the future. A contribution will apply whether the service is provided by the council or purchased /arranged from an external provider.
- 1.3 Local Authorities are permitted to charge for non-residential services which are provided or arranged under the Social Work (Scotland) Act 1968 and the Mental Health (Care and Treatment) (Scotland) Act 2003. These charges must be reasonable, having regard to the care and support being provided and a person's ability to meet any costs. Any charge for services should not exceed the cost of providing the service.
- 1.4 A financial assessment will be undertaken for an individual where they are assessed as requiring eligible care and support services, which there could be a contribution due for.
- 1.5 The contributions policy explains how the council will work out how much a service user should pay towards the cost of their assessed eligible care and support services. The policy approved by the council on 11 September 2018 is effective from 1 October 2018 for new service users and 1 April 2019 for existing service users.
- 1.6 The policy complies with social care legislation, Scottish Government guidance and reflects COSLA's National Strategy and Guidance for Charges Applying to Non- Residential Social Care Services 2021/22 (renamed as 'Charges applying to Social Care Support for people at home) which provides a framework for councils to demonstrate that in developing their charging policies, they have followed best practice.
- 1.7 The policy is based on:
 - Fairness and equality
 - Consistent decision making
 - Transparency of cost of contribution
 - COSLA National Guidance and relevant social work legislation
- 1.8 The council will adhere to the following principles that an individual will be:
 - Entitled to be assessed for eligible care and support needs and services provided on that basis;
 - Asked to contribute towards the cost of their eligible care and support where it is practicable for them to pay;
 - Required to contribute no more than the cost of providing their eligible care and support;
 - Provided with a financial assessment before any determination is made about the level of contribution they should make to their eligible care and support services;
 - Provided with a personal income check to provide them with information, advice and support to maximise and manage their income;
 - Treated in a transparent, fair and equitable manner;
 - Provided with information and assistance when they need it; and
 - Able to complain or request a review of any decision which is made about them,

their care or financial contribution.

- 1.9 Figures in this policy are correct for the financial year 1 April 2022 to 31 March 2023. As reference to COSLA guidance is made throughout this policy and this guidance is subject to annual updates, reference should be made to the latest COSLA guidance for up to date personal allowance thresholds. <http://www.cosla.gov.uk/social-care-charging-information>

2. PROVISION OF SOCIAL CARE AND SUPPORT

- 2.1 The self-directed support approach means that personal plans are developed with individuals based on their identified outcomes. The 'All About Me' assessment process generates an indicative budget and the individual is then presented with four options in order to choose how this indicative budget will be spent in order to meet their outcomes. The care and support contribution will be linked to an individual's personal finances and their ability to pay rather than the type(s) of services chosen to meet their needs.

- 2.2 A financial assessment will be carried out to determine the overall contribution due by an individual.

- 2.3 A financial contribution is not required for the following social care and support services

- Criminal Justice social work services
- Provision of information and advice
- Needs assessment
- Case management following a needs assessment
- Adaptations for disabled persons in owner occupier or privately rented housing, which attract a mandatory grant (in line with the council's Scheme of Assistance) as they are being funded by the council through a grant process to meet the cost of that work.
- Provision of nursing and personal care (see section 3 and Appendix 1)

- 2.4 Leaving Hospital

Where an individual has been an NHS in-patient for more than 24 hours or had surgery as an NHS day patient:

- A financial contribution is not required for new, intermediate or additional home care services for 42 days on discharge from hospital including reablement services, minor adaptations or equipment provided to facilitate discharge pending further assessment at home
- Services in place pre-admission and which continue after discharge will continue to be chargeable.
- Relief from charging for hospital discharge does not apply to discharges following admission on a regular or frequent basis as part of on-going care e.g. admission for respite care, on-going episodic treatment

NB Based on Scottish Executive Circular No. CCD 2/2001 "Free Home Care for Older People Leaving Hospital"

- 2.5 Individuals residing in Residential, Assisted Living or Housing with Care may be assessed for additional social care needs, in terms of the council's Eligibility for Non Residential Adult Social Care Policy. If this identifies a need for additional care and support they may be subject to a financial assessment and contribution. Other care and support provided and charged independently through Housing Support Charges or Telecare charges do not fall within the terms of this policy.

- 2.6 Transition from child to adult services

Children and young people are not charged for any social care up to the point they transition

from children's social work services to adult social work services. The contributions policy will apply at the time an adult social work assessment is undertaken.

For children and young people who have been looked after and specifically for young people receiving continuing care, the transition to adult services can be for an extended period of time and therefore the application of the contributions policy will be in accordance with the transition plan specific to each young person.

3. WHO IS EXEMPT FROM MAKING FINANCIAL CONTRIBUTIONS?

3.1 Individuals are exempt from making a financial contribution who are:

- terminally ill (in receipt of a DS1500 form or regarded as having a terminal illness for the purpose of determining entitlement to disability assistance)
- receiving personal or nursing care only as defined by the Community Care and Health (Scotland) Act 2002 and amendment number 2 in 2018. (see Appendix 1)
- subject to a Compulsory Treatment Order under the Mental Health (Care and Treatment) (Scotland) Act 2003
- subject to a Compulsion order under the Criminal Procedure (Scotland) Act 2003
- receiving care and support as an unpaid Carer under the Carers (Waiving of Charges for Support) (Scotland) regulations 2014

4. THE FINANCIAL ASSESSMENT PROCESS

- 4.1 Anyone who receives a "chargeable service" will be assessed to determine how much they can afford to pay towards the cost of those services they receive; this is called a financial assessment. The care and support provided will always be based on assessed eligible need and a contribution towards the cost of care and support based on the practicality of an individual's ability to pay that contribution. Appendix 1 contains some examples of chargeable services.
- 4.2 A financial assessment will be carried out along with a social care assessment. Where care and support needs have been identified eligible services will be delivered to meet those needs from an agreed commencement date on the care and support plan. Any contribution which is determined as being due will be backdated to the commencement of any care or support services being provided.
- 4.3 The council will ensure, as part of the financial assessment process, that an individual is receiving maximum entitlement to any benefits / income. If the financial assessment process is refused an individual may be liable for the full cost of their care and support, less any free personal care element.
- 4.4 An individual's ability to contribute toward the cost of their care will be based on their available weekly income, and capital held. An officer from the council may be required to visit an individual at home to undertake a financial assessment. The officer is required to have proof of all income and capital held, therefore any Pension or Benefit statements, and bank or savings books relating to financial affairs should be made available for inspection.

4.5 Total Assessed Income

An individual's ability to contribute to the cost of eligible care and support will take account of following income, based on a weekly amount:

- Net earnings
- Benefits / Tax Credits
- Pension Income

- Other income, including income from a non-dependent living at home
- Capital income

4.6 Partner's Income

Where someone is part of a couple, this being their spouse or civil partner, only their income and capital, along with 50% of any jointly awarded/held income and capital will be taken into account when calculating their contribution. This ensures that partners are left with their own income and capital.

Jointly held capital is split equally between the couple unless he/she can demonstrate that they have no legal entitlement to the capital. Capital income (see paragraph 4.8) will be calculated on the basis of the apportioned share of capital.

4.7 Disregarded Income

Certain types of income will not be taken into account in the financial assessment process. This is known as disregarded income. These include the following:

- Disability Living Allowance (DLA) Mobility Component
- Personal Independence Payment (Mobility Component)
- Adult Disability Payment (ADP) (Mobility Component)
- Enhanced rate of (PIP) Personal Independence Payment (Daily Living Component) when the person is not receiving night time services. Therefore, only including the standard rate as income
- Enhanced rate of (ADP) Adult Disability Payment (Daily Living Component) when the person is not receiving night time services. Therefore only including the standard rate as income
- The higher rate element of Disability Living Allowance (Care Component) when the person is not receiving night time services. Therefore, only including the middle rate as income
- The enhanced rate of Attendance Allowance when the person is not receiving night time services. Therefore, only including the lower rate as income
- £20 of net earned income
- Independent Living Fund payments
- All benefits paid for or on behalf of dependent children including Child Benefit
- Child Tax Credits
- War Disablement Pension and compensation payments made through the Armed Forces Compensation Scheme
- Compensation Payments. West Lothian Council will disregard the range of compensation payments outlined in and in line with the COSLA guidance including the consideration of payments held in Trust. This will include interest on compensation payments.

4.8 Capital

Capital such as savings, bonds, stocks and shares, ISAs etc. will be considered as a source of income.

The approach set out below disregards income received against capital held up to a level of £6,000 for individuals below state pension qualifying age; or £10,000 for individuals of state pension qualifying age or above. For any capital held above those levels a weekly income is assumed and this is added as income in the financial assessment; as per the rates set out in the table below:

	Disregard Capital Below	Weekly Capital Income
Below State Pension Qualifying Age	£6,000	£1 per £250, or part thereof

State Pension Qualifying Age or Above	£10,000	£1 per £500, or part thereof
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The value of an owner occupier's home is not counted as capital.

4.9 Applicable Housing Costs

The assessable income calculation will be net of applicable housing and council tax costs. Housing costs include: rent and mortgage payments, buildings insurance premiums for owner occupiers and costs for Council Tax and Water and Sewerage will also be deducted. If an individual is part of a couple this will be a 50% deduction.

For non-dependents living at home an allowance for rent paid to family / parents will be disregarded in line with DWP guidance on non-dependent deductions.

4.10 Personal Allowance

For users of non-residential services the policy reflects the COSLA Guidance, which suggests a level of weekly income below which someone cannot be asked to pay care and support charges. These are known as personal allowances (or minimum income thresholds) and are set at the following levels for 2022/23:

Single person under pension qualifying age	£142
Couple under pension qualifying age	£216
Single person over pension qualifying age	£228
Couple over pension qualifying age	£348

The basis of the personal allowance is linked to rates set by the DWP for income support personal allowances, disability premiums and pension credit. In order to provide more help to those on low incomes and to recognise that not all of someone's income above these rates should be taken in contributions, a buffer of 25% is included in the personal allowance threshold levels set out above.

5. HOW WILL CONTRIBUTIONS BE CALCULATED?

- 5.1 To determine the amount someone can afford to contribute towards their eligible care and support, the following will be completed:

Total Assessed Income (A)
Less Applicable Housing Costs (B)
Less Disregarded Income (C)
Less Personal Allowance (D)
Equals Excess Income (E)
Apply WLC Taper of 65% if (E) > Nil

Equals Maximum Weekly Contribution

- 5.2 If the assessable weekly income is calculated at less than the personal allowance figure, an individual will not be charged for their care and support service.
- 5.3 A decision to apply taper rates to contributions or charges is at the discretion of individual local authorities. The council has decided that the maximum weekly contribution that someone will be required to contribute to their eligible care and support costs is 65% of any excess income. This is in addition to the 25% buffer rate included in the personal allowance and other income and expenditure disregards.
- 5.4 Individuals will be required to contribute the maximum weekly contribution that has been assessed, or the actual cost of their care and support plan, whichever is the lesser amount.

5.5 Individuals with an assessed contribution of less than £1 per week will not be asked to contribute.

5.6 Appendix 3 provides some examples of how a contribution will be calculated.

6. DISABILITY RELATED EXPENDITURE (DRE)

6.1 DRE is the additional expense that a person incurs, because they are disabled or have health problems. DRE will vary for each individual and what may or may not be included in a financial assessment will depend on the disability and individual's needs.

6.2 The council will consider whether to disregard more of a person's income or capital, over and above any existing disregards, to take account of any additional disability related expenditure as part of their financial assessment process or on a case by case basis by request. Where an individual is in receipt of a Disability Related Benefit then a contribution calculation to disregard any excessive DRE can be requested or taken into account. DRE does not include general items or services required for daily living by anyone; items or services met by a grant or other funding source; the difference between the actual cost and a lower cost alternative where it is considered reasonable to have the lower cost alternative.

6.3 Should someone have additional disability related expenditure, which they feel is not taken account of in the additional 65% income taper applied to all financial assessments, they should provide details of that expenditure so it is considered in a financial assessment. If a contribution will cause undue financial hardship an individual may request a review of their contribution in line with the process detailed in Paragraph 11 providing evidence of all additional disability related expenditure. The council may refer individuals to the West Lothian Advice Shop for a Personal Income Check before they consider a review.

7. PERSONAL INCOME CHECK

7.1 To fully assess an individual's circumstances, it is important that help, support and advice are provided at the right time. To support an individual's needs a full holistic personal income check will be offered encompassing advice and support in Income Maximisation, Debt, Money Management, and Energy & Housing options.

7.2 All individuals who undertake a financial assessment will be given the opportunity to undertake a full personal income check. Individuals can opt out of this.

7.3 The service is provided by West Lothian Advice Shop, who will carry out an impartial, confidential and a holistic income check. Carers and/or other members of the household can also have a personal income check completed.

8. OTHER CHARGES

8.1 The contribution which is to be made towards care and support will be based on assessed eligible care needs regardless of what Self Directed Support option is chosen or whether care is provided by the council or another provider.

8.2 Access to the Home Safety Service ("Telecare") will not be part of an individuals assessed needs if this has been chosen as a service. The current charge for the Telecare service is £3.20 per week. This will remain as a separate chargeable service.

9. DIRECT PAYMENTS

- 9.1 Self-Directed Support allows everyone with a care and support package to manage their own care and provides them with opportunity to exercise choice and control on how those needs are met. Where a person has been assessed as being able to contribute towards their care and support, and chooses a direct payment (Self-Directed Support option 1), their assessed contribution will be deducted prior to the provision of the monthly direct payment i.e. the direct payment will be paid 'net'.
- 9.2 A direct payment will be paid net of any assessed financial contribution, unless a request is made for the payment to be paid gross.
- 9.3 The council will give any request to pay a direct payment gross its full consideration. The council will consider the reasons and circumstances behind any request before making a decision. It will inform the person in writing of their decision.

10. PAYMENT OF CONTRIBUTIONS

- 10.1 Individuals will be invoiced on completion of the financial assessment for their annual contribution from the date their eligible care and support services commence to end of the financial year, and thereafter will be billed annually in advance.
- 10.2 A direct debit will be set up to collect the contribution in instalments on a monthly basis. If individuals are unable to use the Direct Debit Scheme then the council will discuss alternative methods of collection with them.
- 10.3 Failure to make payment of any contribution may result in the council taking appropriate recovery action in line its Service Accounts invoicing and collection process and Corporate Debt policy.

Planned and unplanned breaks

- 10.4 It is the responsibility of individuals to advise the council in advance of any planned circumstances which will impact on the need for service delivery. A representative such as guardian, family member or care provider may advise the council of any known absences – adhoc, planned or unplanned - so that appropriate steps can be taken to pause or cancel any care provision. The council may require to confirm with the individual details of any absence before being able to cancel any care provision.

Notice of planned and unplanned breaks can be provided by the individual or their representative to an allocated worker, by email (adultsocialcare@westlothian.gov.uk) or telephone (01506 284848).

Planned breaks including scheduled admission to hospital

An adjustment can be made to the individual's contribution for going on holiday or being admitted to hospital for a scheduled operation subject to advance notice of at least four weeks. The section on hospital discharge (section 2.4) should be read in conjunction with this.

Unplanned and emergency breaks in care provision

An adjustment to a contribution can be made for unplanned or emergency admission to hospital on the advice of an individual or their representative. The nature of unplanned or emergency admission means that no advance notice is expected to be given, and any adjustment to a contribution will be backdated to the date of admission and adjusted for the remainder of the invoice period. The section on hospital discharge (section 2.4) should be read in conjunction with this.

Absence due to COVID self-isolation will be treated as an emergency absence.

Ad-hoc absences

Ad hoc absences, including being ill (at home) or absent for appointments are not eligible for adjustments to an individual's contribution. This is because the care provision will already have been scheduled and paid for. When a period of being ill at home becomes extensive an adjustment can be considered on a case by case basis, if requested. This will normally be undertaken in conjunction with a re- assessment of care needs to identify if a change to a care plan is required.

11. ENQUIRIES, REVIEWS, COMPLAINTS

- 11.1 West Lothian Council seeks to resolve customer dissatisfaction as close as possible to the point of service delivery. The first point of contact should be the assessor who has undertaken the needs assessment.
- 11.2 If there are concerns the financial contribution has been miscalculated or income, capital or disregards used in the calculation are incorrect the Financial Assessment Team can be asked to review their decision. Reconsideration of the financial assessment is the first step in the review process.
- 11.3 If an individual feels their financial contribution will cause undue financial hardship they can request a social work review to determine if further disregards should be applied, or a reduction of the contribution or waiver of it should be applied.
- 11.4 If the individual has a complaint about the service they receive, they are entitled to make a complaint at any time. The West Lothian Council Complaints Processes will apply.
- 11.5 The provision of care and support will continue during the period of any review or complaint.
- 11.6 Details of the review and complaints processes are available on request and on the Council's website.

12 RELATED LEGISLATION AND WEST LOTHIAN COUNCIL POLICIES

This policy complies with the following core legislation which continues to be the legal basis for assessment in West Lothian Council:

- The Social Work (Scotland) Act 1968
- Chronically Sick and Disabled Persons Act 1970
- The NHS and Community Care Act 1990
- Children (Scotland) Act 1995
- The Human Rights Act 1998
- Data Protection Act 1998
- Adults with Incapacity (Scotland) Act 2000
- The Regulation of Care (Scotland) Act 2001 Community Health and Care (Scotland) Act 2002
- Mental Health (Care and Treatment) (Scotland) Act 2003
- The Adult Support and Protection (Scotland) Act 2007
- Social Care (Self-directed Support)(Scotland) Act 2013
- Children and Young People (Scotland) Act 2014
- The Carer's (Scotland) Act 2016
- West Lothian Council Policy on the application of hourly rates for the purchase of registered agency services under Self-directed Support Option 2 ('SDS Option 2 Policy')
- West Lothian Council Policy on Self-directed Support ('SDS Policy')
- West Lothian Council Eligibility Criteria for Carer Support ('Carer's

eligibility')

- West Lothian Council Policy on Assessment and the Application of Eligibility Criteria for Non-Residential Care ("Eligibility Policy")

13 UPDATES

This policy will be reviewed annually. Up to date information will be published on the council's website www.westlothian.gov.uk Paper copies are available on request

DRAFT

14. APPENDICES

Appendix 1

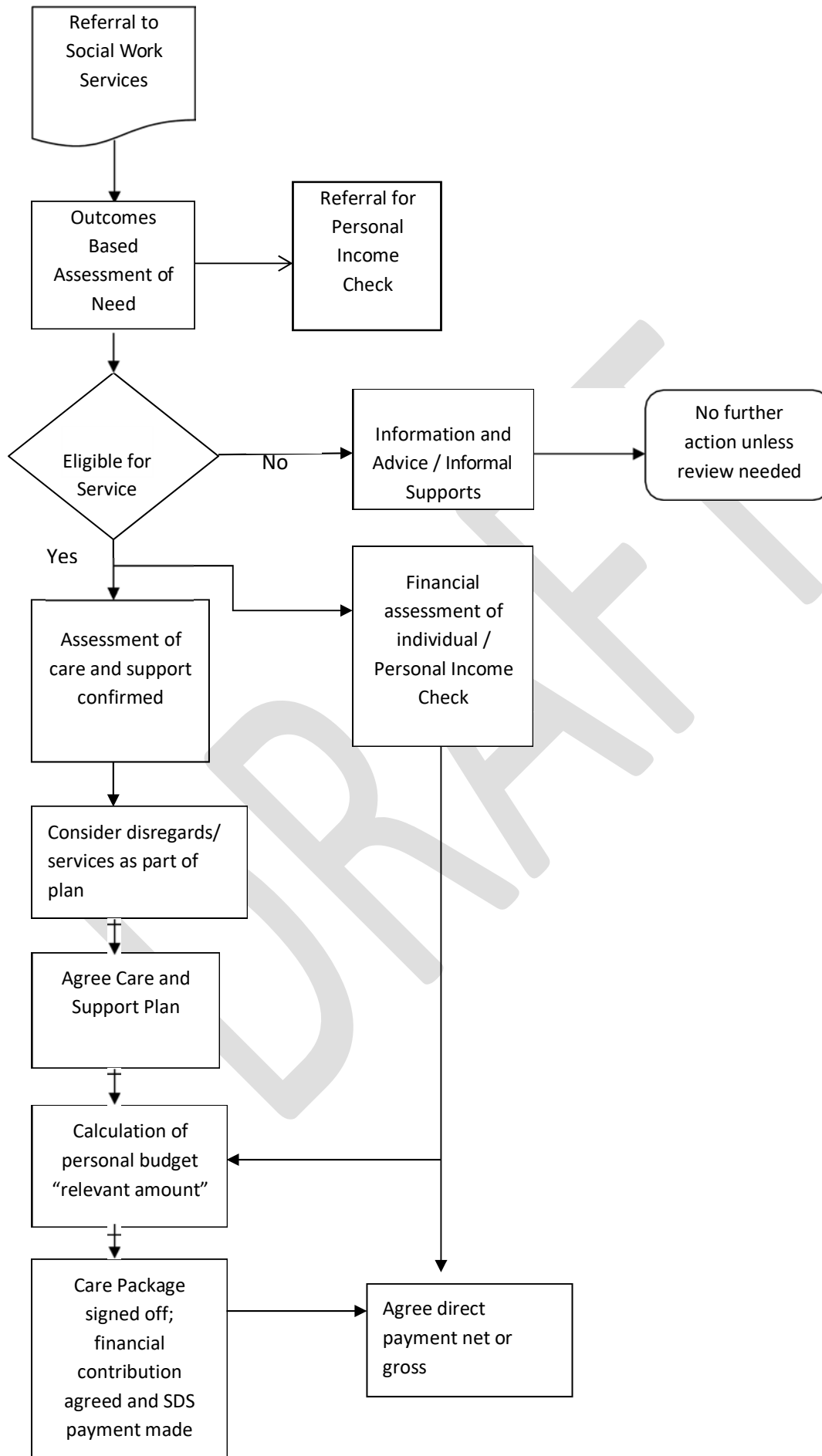
Definition of personal care

- Personal Hygiene- Bathing, Showering, hair washing, shaving etc.
- Personal Assistance – Dressing, surgical appliances, prosthesis etc.
- Continence Management, Toileting, skin care, bed changing etc.
- Simple Medical Treatments – Assistance with medication, including eye/ear drops, application of creams, simple dressings etc.
- Food and Diet – Food and drink provision, feeding, assistance with special diets, assistance to manage different meals services etc.
- Moving and handling – Assistance to get up/go to bed, Transfers, including the use of hoists.

Examples of Non-residential care services

- Day support, including day care
- Care at Home – supported accommodation, supported living, housing support services
- Lunch Clubs
- Wardens in Sheltered Housing
- Laundry Services
- Aids and Adaptations
- Transport
- After Care services for people with a mental illness
- Care and support services for those who have, or have had a mental illness, (in or not in hospital)

Appendix 2 Assessment of Needs and Financial Assessment Process



Appendix 3

Non-Residential Social Care Examples

Client A: This client is a single person under pension age living with parents. They have been assessed as requiring 1 hour of non-personal care per week, costing £15.00 per week.

Total Assessed Income	£
Employment and Support Allowance (Income Related) - including disability premiums	135.35
PIP Daily Living Standard Rate	61.85
Capital	0.00
Total Assessed Income (A)	197.20
Applicable Housing Costs (B)	
Assumed Housing Costs for a Non-Dependent Adult	£17.97
Disregarded Income (C)	
N/A	
Personal Allowance (D)	
Single Person Allowance – under pension age	142.00
Total Housing Costs, Disregards and Personal Allowances	159.97
Excess Income (E)	37.23
Maximum Weekly Contribution (65% of excess income)	24.20
Actual Weekly Contribution	15.00

In this example, because the client's applicable housing costs, disregarded income and personal allowance is lower than their total assessed income, they have been assessed as having excess income of £37.23 per week. As West Lothian Council apply an additional taper of 65%, their maximum weekly contribution will reduce to £24.20 per week.

The client's maximum weekly contribution is higher than the weekly cost of their care and support package which is £15.00 per week, and they have therefore been assessed as requiring to pay the total cost of £15.00 per week for their non-personal care.

Contd/.

Appendix 3 continued

Client B: This client is a single person under pension age. They receive 27 hours of non-personal care a week, at a cost of £547.15 per week.

Total Assessed Income	£
Employment and Support Allowance (Income Related) – including enhanced disability, severe disability and support component	204.75
PIP Mobility Enhanced Rate	64.50
PIP Daily Living Enhanced Rate	92.40
Capital	0.00
Total Assessed Income (A)	361.65
Applicable Housing Costs (B)	
Council Tax (inc Water and Sewerage)	5.25
Rent (net of Housing Benefit)	0.00
Disregarded Income (C)	
PIP Mobility Enhanced Rate	64.50
PIP Daily Living Enhanced Rate – only the difference between the enhanced rate and standard rate is taken into account)	30.55
Personal Allowance (D)	
Single Person Allowance – under pension age	142.00
Total Housing Costs, Disregards and Personal Allowances	247.80
Excess Income (E)	113.85
Maximum Weekly Contribution (65% of excess income)	74.00
Actual Weekly Contribution	74.00

In this example, because the client's applicable housing costs, disregarded income and personal allowance is lower than their total assessed income, they have been assessed as having excess income of £113.85 per week. As West Lothian Council apply an additional taper of 65%, their maximum weekly contribution will reduce to £74.00 per week.

The client's maximum weekly contribution is lower than the weekly cost of their care and support package which is £547.15 per week, and they have therefore been assessed as requiring to contribute £74.00 per week towards the cost of their non-personal care.

Contd/.

Appendix 3 continued

Client C: This client is part of a couple under pension age with a partner receiving Carers Allowance, they have jointly held capital totaling £12700.00. WLC will assume income solely received by the person receiving care and only 50% of any income or capital jointly received or held by the couple. The client receives 2 hours of non-personal care a week, at a cost of £17.50 per week.

Total Assessed Income	£
Employment and Support Allowance (Income Related) - including disability premiums and less tariff income from joint held capital.	199.85
PIP Mobility Enhanced Rate	64.50
PIP Daily Living Enhanced Rate	92.40
Capital	2.00
Total Assessed Income (A)	358.75
Applicable Housing Costs (B)	
Council Tax (inc Water and Sewerage) – 50%	2.75
Rent (net of Housing Benefit)	0.00
Disregarded Income (C)	
PIP Mobility Enhanced Rate	64.50
PIP Daily Living Enhanced Rate – only the difference between the enhanced rate and standard rate is taken into account)	30.55
Personal Allowance (D)	
Couple Personal Allowance – under pension age	216.00
Total Housing Costs, Disregards and Personal Allowances	313.80
Excess Income (E)	44.95
Maximum Weekly Contribution (65% of excess income)	29.22
Actual Weekly Contribution	17.00

In this example, because the client's applicable housing costs, disregarded income and personal allowance is lower than their total assessed income, they have been assessed as having excess income of £44.95 per week. As West Lothian Council apply an additional taper of 65%, their maximum weekly contribution will reduce to £29.22 per week.

As the client's maximum weekly contribution of £29.22 is higher than the weekly cost of their care and support package, £17.00 per week, they are required to pay the lesser of the two calculations towards the cost of their non-personal care, £17.00.

Contd/.

Appendix 3 continued

Client D: This client is a single person of state pension qualifying age. They receive 2 hours of non- personal care a week at a cost of £38.20 a week

Total Assessed Income	£
War Disablement Pension	68.70
State Pension	141.87
Additional Pension	70.02
DLA Mobility low rate	24.45
DLA Care middle rate	61.85
Private Pension	42.50
Capital	0.00
Total Assessed Income (A)	409.39
Applicable Housing Costs (B)	
Council Tax (inc Water and Sewerage)	5.50
Rent (net of Housing Benefit)	5.00
Disregarded Income (C)	
DLA Mobility low rate	24.45
War Disablement Pension	68.70
Personal Allowance (D)	
Single Person Allowance – state pension age	228.00
Total Housing Costs, Disregards and Personal Allowances	331.65
Excess Income (E)	77.74
Maximum Weekly Contribution (65% of excess income)	50.53
Actual Weekly Contribution	38.20

In this example, because the client's applicable housing costs, disregarded income and personal allowance is lower than their total assessed income, they have been assessed as having excess income of £66.96 per week. As West Lothian Council apply an additional taper of 65%, their maximum weekly contribution will reduce to £50.53 per week.

As a result of the client's maximum weekly contribution of £50.53, being greater than the actual cost of care, £38.20, they are required to pay the lesser of the two calculations, £38.20

Contd/.

Appendix 3 continued

Client F: This client is part of a couple and is over pension age. WLC will assume income solely received by the person receiving care and only 50% of any income or capital jointly received or held by the couple. In this example, the couple do not receive any joint income or hold any capital over £10,000. The client currently receives 12 hours of non-personal care a week at a cost of £197.52 per week.

Total Assessed Income	£
State Pension	119.00
Additional Pension	1.15
DLA mobility high rate	64.50
DLA Care middle rate	61.85
Partner's Income	0.00
Capital (jointly held)	0.00
Total Assessed Income (A)	246.50
Applicable Housing Costs (B)	
Council Tax (inc Water and Sewerage)	2.50
Rent (net of Housing Benefit)	10.00
Disregarded Income (C)	
DLA mobility high rate	64.50
Personal Allowance (D)	
Couple Personal Allowance – state pension qualifying age	348.00
Total Housing Costs, Disregards and Personal Allowances	425.00
Excess Income (E)	0.00
Maximum Weekly Contribution (65% of excess income)	0.00
Actual Weekly Contribution	0.00

In this example, because the client's applicable housing costs, disregarded income and personal allowance is higher than their total assessed weekly income, it has been assessed that they do not have any excess income to contribute towards their non-personal care package.

DATA LABEL: PUBLIC



SOCIAL WORK & HEALTH - POLICY DEVELOPMENT AND SCRUTINY PANEL

PERFORMANCE REPORT – QUARTERLY INDICATORS

REPORT BY HEAD OF SOCIAL POLICY

A. PURPOSE OF REPORT

To report the current level of performance for the quarterly indicators up to quarter 1 of 2022-23 that support the Corporate Plan and are the responsibility of Social Policy and reportable to the newly combined Social Work & Health Policy Development and Scrutiny Panel.

B. RECOMMENDATIONS

It is recommended that the Panel note the performance information and determine if further action or enquiry is necessary for any of the performance indicators in the report.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">• Focusing on our customers' needs• Being honest, open and accountable• Providing equality of opportunity• Developing employees• Making best use of resources• Working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	In compliance with the Code of Corporate Governance
III Implications for Scheme of Delegations to Officers	No implications.
IV Impact on performance and performance Indicators	This report is an evaluation of current/historic performance
V Relevance to Single Outcome Agreement	The indicators support the outcomes in the Single Outcome Agreement
VI Resources - (Financial, Staffing and Property)	N/A
VII Consideration at PDSP	N/A

VIII Other consultations N/A

D. TERMS OF REPORT

D1 Background

The Policy Development and Scrutiny Panel (PDSP) oversee and challenge council performance. They are a key element of the scrutiny of performance by elected members and form part of the council's wider scrutiny and public performance reporting arrangements. To support this, each PDSP is allocated areas of the Corporate Plan, strategic priorities and key council performance indicators, relevant to the focus areas of the Panel. They receive both quarterly and annual performance reports.

D2 Quarterly Performance Report

Following the merge of the Social Policy PDSP and the Health and Care PDSP, the quarterly performance scorecard report for the new Social Work and Health PDSP is currently under review and the contents and format of the report, subject to change.

Quarter 1 of 2022/23 will be reported using the previous format with the review expected to be complete in time for the quarter 2 report.

This report contains a range of relevant service performance information for scrutiny. A summary report of the performance indicators in the Social Policy PDSP scorecard is contained in Appendix 1. The scorecard report contains the most up to date quarterly data.

The performance indicators are categorised as follows:

Summary of Performance Indicator status (RAG)	
Status (against target)	Number of PIs
Green	10
Amber	0
Red	3

The RAG status is against the performance target that has been set by the service in consultation with the relevant stakeholders.

Each indicator is accompanied by trend chart commentary, which provides an explanation of the current performance levels (against the target). This information also highlights any performance below target and outlines the measures that our services are taking to improve their performance.

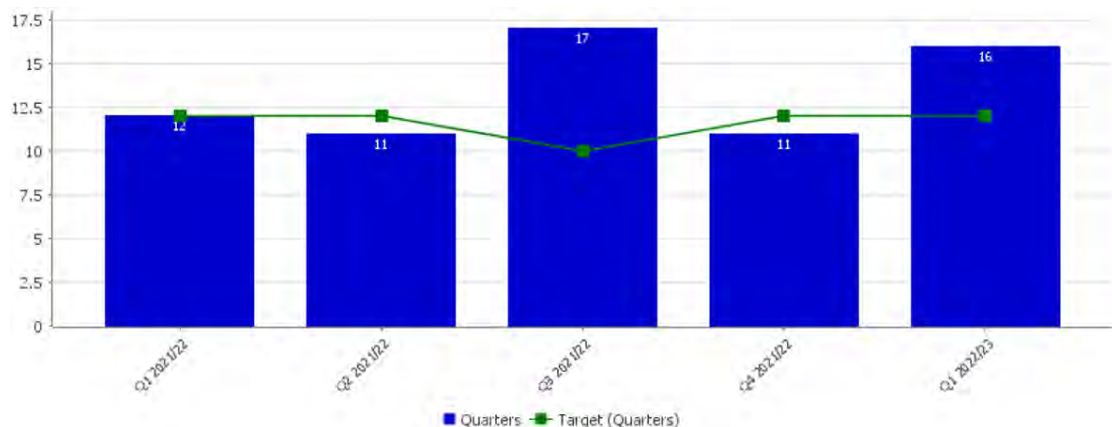
D3 Amber and Red Performance Indicators

P:SPCC038_6b.3 Total number of complaints received by the Community Care Services

This indicator measures the total number of complaints received by Community Care. It is the total number of complaints received by Community Care at stage one (complaints that the council aims to deal with within 5 working days) and those received directly at stage two (more complex complaints that the council aims to deal with within 20 working days). The information is recorded on the council's Complaints Records Management system which allows systematic performance reporting and analysis of trends. Complaint outcomes are analysed to inform improvement plans.

Current Performance – 16

Target – 12



Trend Chart Commentary:

The number of complaints received by Community Care Services are few but highly variable within a small range. Complaints are systematically analysed both at an individual and aggregate level to inform trends and areas for improvement but it has not been possible to identify any consistent trend which would inform variations in performance.

Performance across range of Q4 20/21 to Q4 21/22 has remained variable with a peak of 17 complaints in two quarters. Analysis of individual complaints identifies no particular pattern that accounts for this, however there were 4 complaints received in Q3 21/22 relating to care at home provision. There has been significant pressure experienced within this area of service provision. 16 complaints have been received over Q1 22/23. Managers are maintaining close oversight of complaints to ensure any issues are identified and appropriate action progressed. Review of target has been progressed and increased to 14 based upon average complaint rate over the charted period (Q1 2021/22 to Q1 2022/23)

Where individual complaints are upheld or partially upheld, the service ensures that required improvements are identified and implemented.

P:SPCF008_6a Percentage of children and young people who participate in Looked After Children (LAC) reviews.

This is an indicator as to the extent that children and young people aged 8 and above participate in Looked After Children (LAC) reviews. It is important that young people contribute to the planning for their care and the services who work with them encourage participation. The data is used to determine how effectively we are encouraging participation, what is good practice and where improvements can be made.

Current Performance – 21.15%

Target – 55%



Trend Chart Commentary:

Work is underway to better reflect participation in ways other than physical or virtual attendance as young people may wish to put in their views in writing or through an advocate. Data is also being collected in respect of the child's views being shared at the review by others.

In 2022-23 Q1, attendance at reviews reduced slightly to 21% from 22% in 2021-22 Q4. This was an increase from 19% in 2021-22 Q3. In 2021-22 Q2, there was a higher participation at reviews of 28%, however in Q1, this was the lowest in the year at 15%.

In 2020-21, attendance at reviews ranged from 9% in quarter 2 and 35% in quarter 4. This period was the start of the pandemic and reviews started to take place virtually, which required children and families to adapt.

Emphasis has continued on ensuring participation and contributing views by a range of different means including through parent, carer, social worker, advocate in addition to in writing or viewpoint. Although in 2019/20 the percentage in attendance was higher at between 44 and 53%, there were still a number of children who were not attending their review and so obtaining views by other means is hugely important.

Positively in 2022-23 Q1 and in 2021-22 Q4, for 70% of childcare reviews, the child's views were shared at the review by someone else. This compares to a smaller number in 2021-22 Q3 - in 53% the child's views were shared by

someone else. In 2021-22 Q2, at 59% of reviews, views were shared by someone else.

It is important for the service to encourage greater levels of participation from looked after children. This is an area of work ongoing to ensure children's views are captured and attendance is encouraged. The reviewing officers team continue to encourage attendance and record more fully reasons for non attendance.

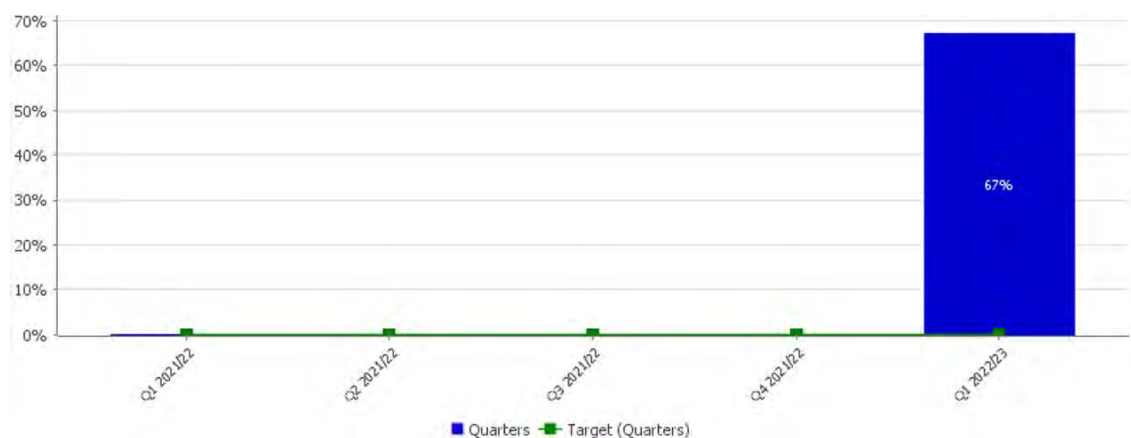
The target will remain at 55% for 2022-23 to test whether improvements can be found.

P:SPCJ043_6b.4 Percentage of complaints against the Justice Service upheld or partially upheld

This performance indicator measures the percentage of statutory social work complaints received half yearly about the Justice service that were upheld or partially upheld. The data for this indicator is extracted from the Lagan Customer Relationship Management System. The data is used to identify any opportunities for improvement that can be made in the service.

Current performance – 67%

Target – 0%



Trend Chart Commentary:

In Q1 2022/23 the service has had 3 complaints all at stage 1 with 2 partially upheld and 1 not upheld thereby exceeding the target setting. The complaints theme was around communication and the impact of not being fully back to face to face meetings following the impact of the pandemic. The target setting remains difficult to set but 0% is no longer realistic so this will be amended to 40%

In 2020/21, the performance has been variable; in Q1 100% of complaints were upheld, or upheld in part. In Q2, no complaints (0%) were upheld and in Q3, no complaints were made with Q4 1 complaint with 0% upheld or partially upheld.

There were no complaints in quarter 1, quarter 2 or quarter 3 of 2021-22 so therefore none were upheld.

The nature of complaints to the Criminal & Youth Justice are often complex and sensitive, however the service receives very few complaints and the results for this indicator can be highly variable. Following analysis of the small numbers of complaints, we have not found any particular trend, or theme that has influenced these results, other than that when we convert the small number of complaints to a percentage count, we see more extreme variation in the result.

Please note that on quarters where there have been no complaints received, there will be no value added, therefore this will show as a blank or missing quarter on the chart.

E. CONCLUSION

The performance scorecard shows that the majority of indicators are achieving targeted levels of performance. Where performance is not at the expected level details are provided in section D.3 to advise the Panel of the improvement action taken by services to improve performance.

F. BACKGROUND REFERENCES

None

Appendices/Attachments _08 PDSP - Social Policy PIs - Quarterly (Detail)

Contact Person: Susan Mitchell - Senior Manager, Social Policy

Email: susan.mitchell@westlothian.gov.uk

Contact Person: Pauline Cochrane - Senior Manager, Social Policy

Email: pauline.cochrane@westlothian.gov.uk

Contact Person: Karen Love - Senior Manager, Social Policy

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Contact Person Robin Allen, Senior Manager, Social Policy

Email robin.allen@westlothian.gov.uk

Jo Macpherson
Head of Social Policy

Date: 18th August 2022

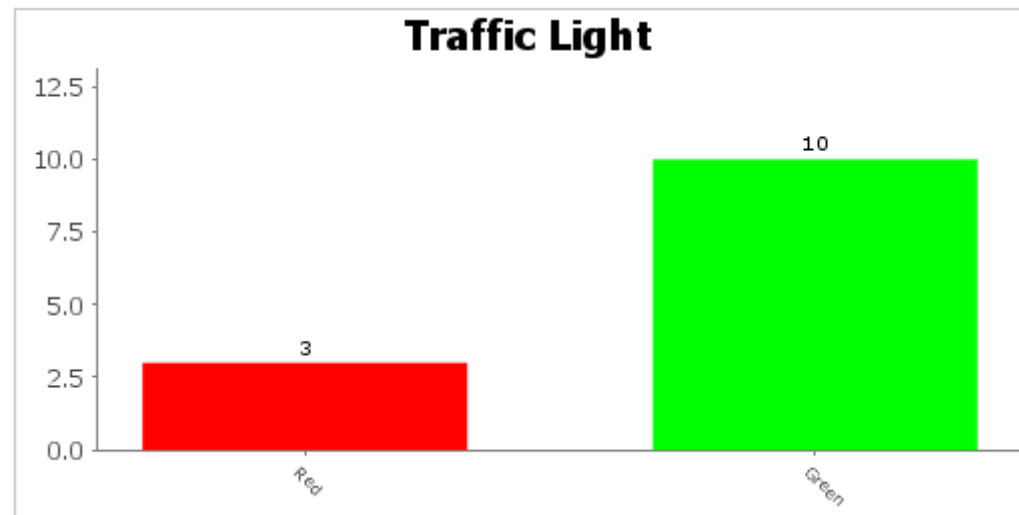
_08 PDSP - Social Policy PIs - Quarterly (Detail)

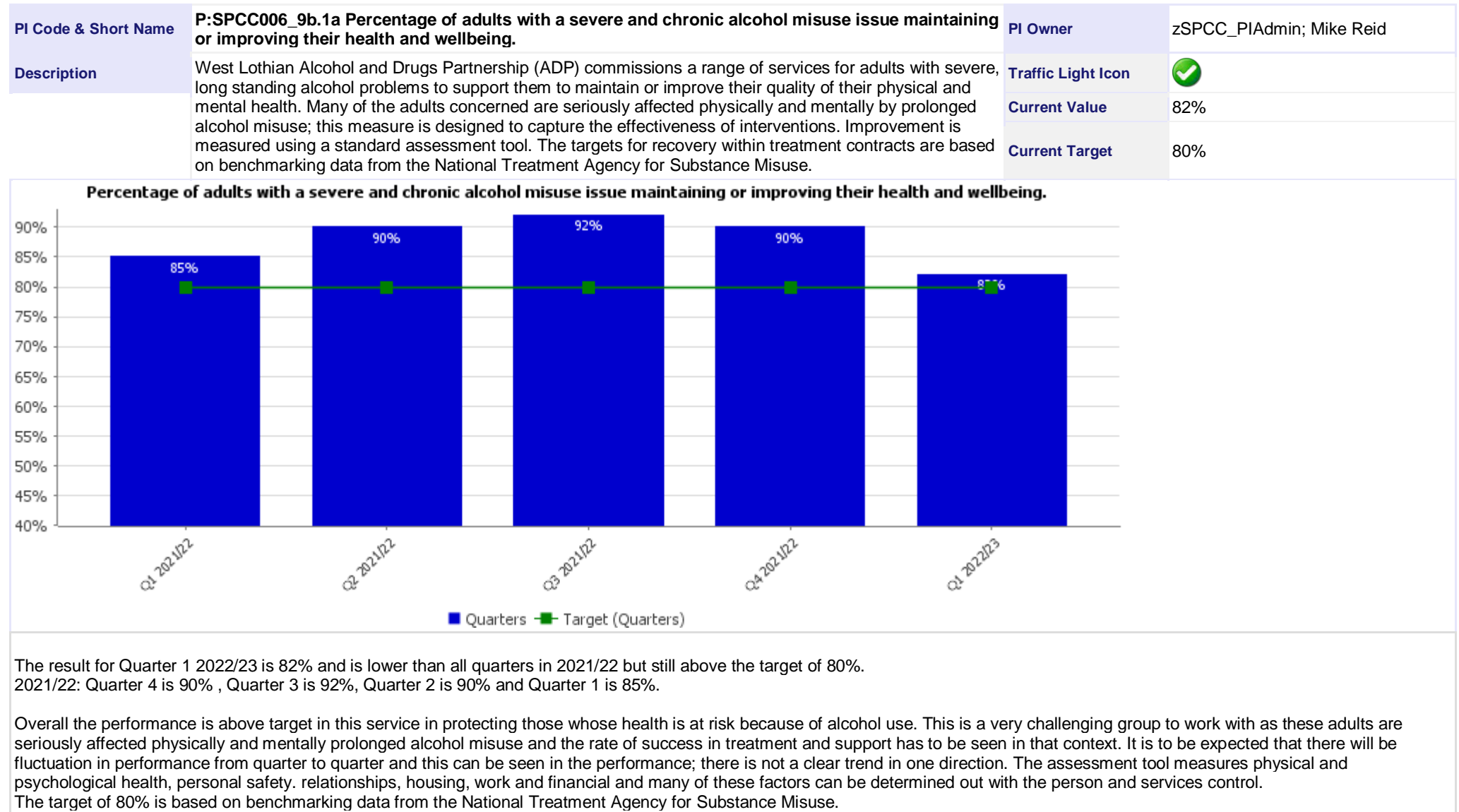
(Data source=PDSP Social Policy scorecard only)


Report Author: Struan Hope

Generated on: 09 August 2022 13:28

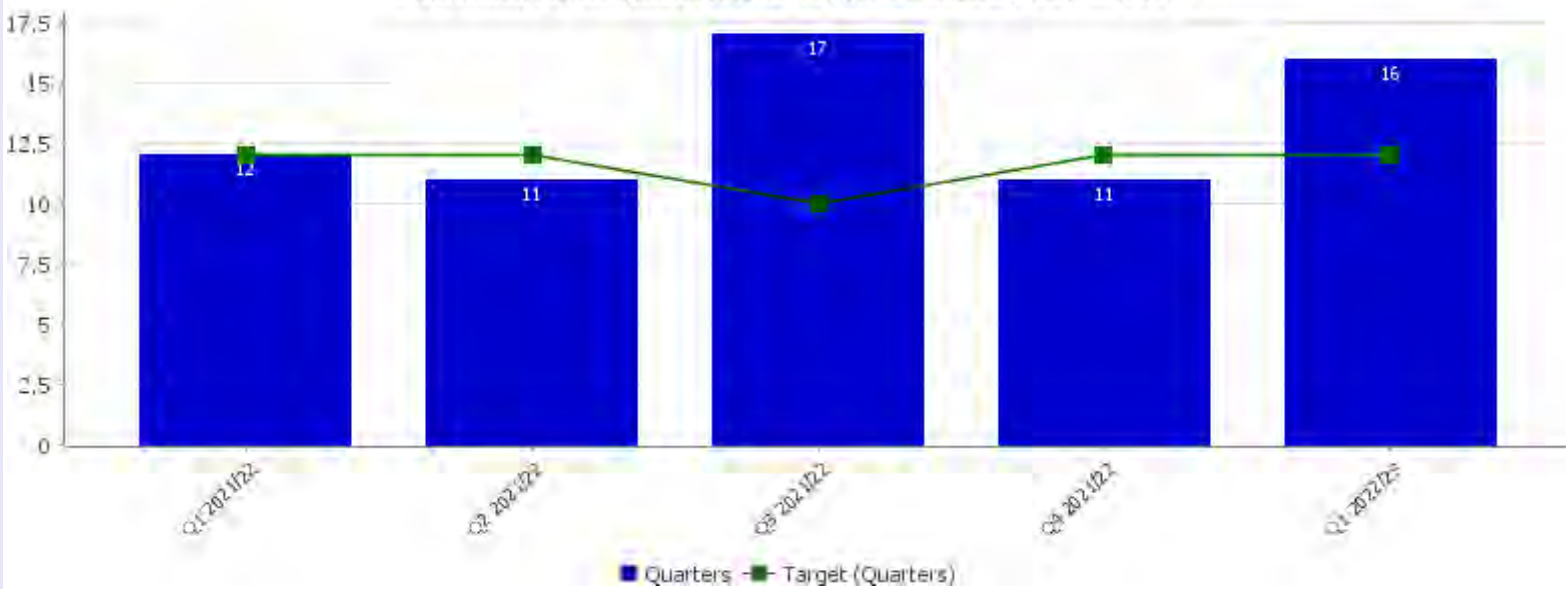
Report Layout: .PDSP_PIs_All_For Committee_Grid





PI Code & Short Name	P:SPCC038_6b.3 Total number of complaints received by the Community Care Services	PI Owner	zSPCC_PIAdmin; Robin Allen; Karen Love
Description	This indicator measures the total number of complaints received by Community Care. It is the total number of complaints received by Community Care at stage one (complaints that the council aims to deal with within 5 working days) and those received directly at stage two (more complex complaints that the council aims to deal with within 20 working days). The information is recorded on the council's Complaints Records Management system which allows systematic performance reporting and analysis of trends. Complaint outcomes are analysed to inform improvement plans.	Traffic Light Icon	
		Current Value	16
		Current Target	12

Total number of complaints received by the Community Care Services



Quarter	Complaints (Quarters)	Target (Quarters)
Q1 2021/22	12	12
Q2 2021/22	11	12
Q3 2021/22	17	12
Q4 2021/22	16	12
Q1 2022/23	16	12

Trend Chart Commentary:

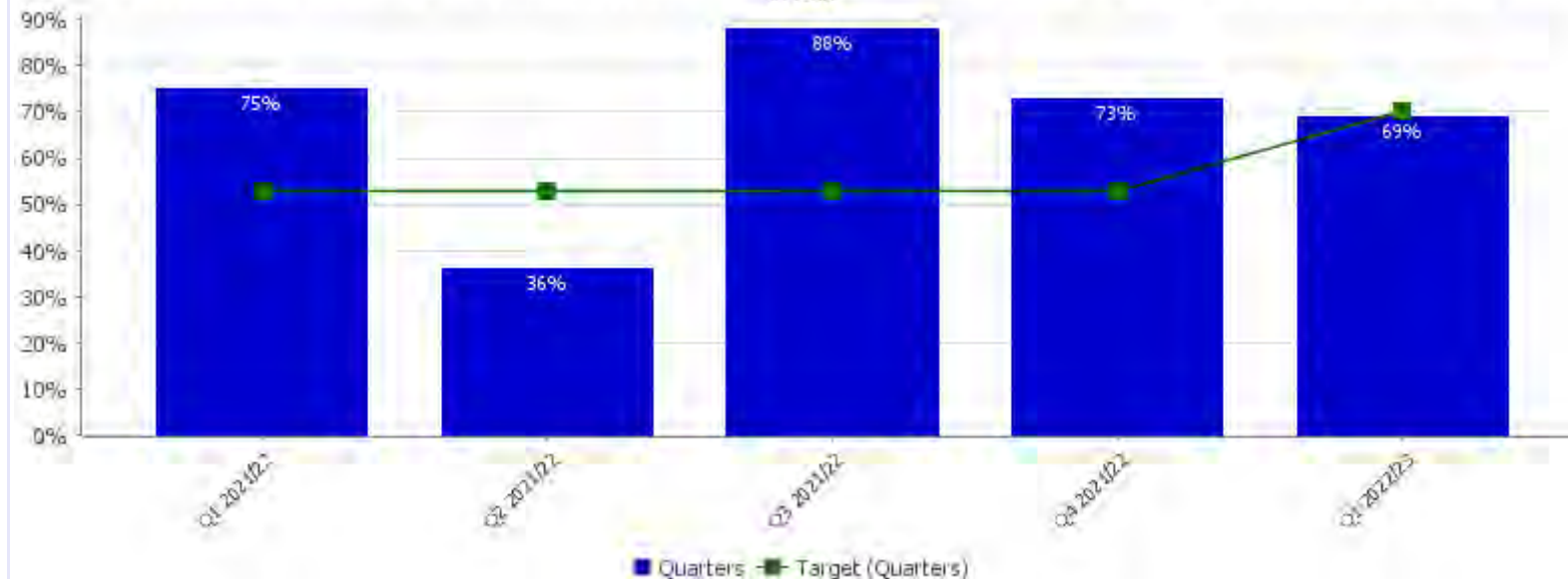
The number of complaints received by Community Care Services are few but highly variable within a small range. Complaints are systematically analysed both at an individual and aggregate level to inform trends and areas for improvement but it has not been possible to identify any consistent trend which would inform variations in performance.

Performance across range of Q4 20/21 to Q4 21/22 has remained variable with a peak of 17 complaints in two quarters. Analysis of individual complaints identifies no particular pattern that accounts for this, however there were 4 complaints received in Q3 21/22 relating to care at home provision. There has been significant pressure experienced within this area of service provision. 16 complaints have been received over Q1 22/23. Mangers are maintaining close oversight of complaints to ensure any issues are identified and appropriate action progressed. Review of target has been progressed and increased to 14 based upon average complaint rate over the charted period (Q1 2021/22 to Q1 2022/23)

Where individual complaints are upheld or partially upheld, the service ensures that required improvements are identified and implemented.

PI Code & Short Name	P:SPCC041_6b.4 Percentage of complaints received by the Community Care Service that were upheld or partially upheld against the total complaints closed in full.	PI Owner	zSPCC_PAdmin; Robin Allen; Karen Love
Description	This indicator measures the total number of council complaints received by Community Care which were upheld or partially upheld, as a percentage of all complaints received. Complaints are recorded on our Customer Relationship Management system, including the outcome. This system provides the service with reports detailing the amount of complaints that were upheld and partially upheld. This information can be used to understand the effectiveness and efficiency of our services, how our staff are performing, the relationship between the service and the client and also an opportunity to identify any areas where improvements could be made to the way the service is delivered to customers.	Traffic Light Icon	🟢
		Current Value	69%
		Current Target	70%

Percentage of complaints received by the Community Care Service that were upheld or partially upheld against the total complaints closed in full.



Trend Chart Commentary:

Quarter 4 of 21/22 has seen a decrease in complaints being upheld or part up held from previous quarter, with 8 out of 11 upheld or part upheld. However this remains outwith the identified target.

Looking at the overall trend Q4 represents similar position to previous quarters, other than a notable dip in Q2 21/22. With the range of service provided across community care and the relatively limited number of complaints not particular reason has been identified to account for the Q2 dip.

Appendix 1

Data Label: PUBLIC

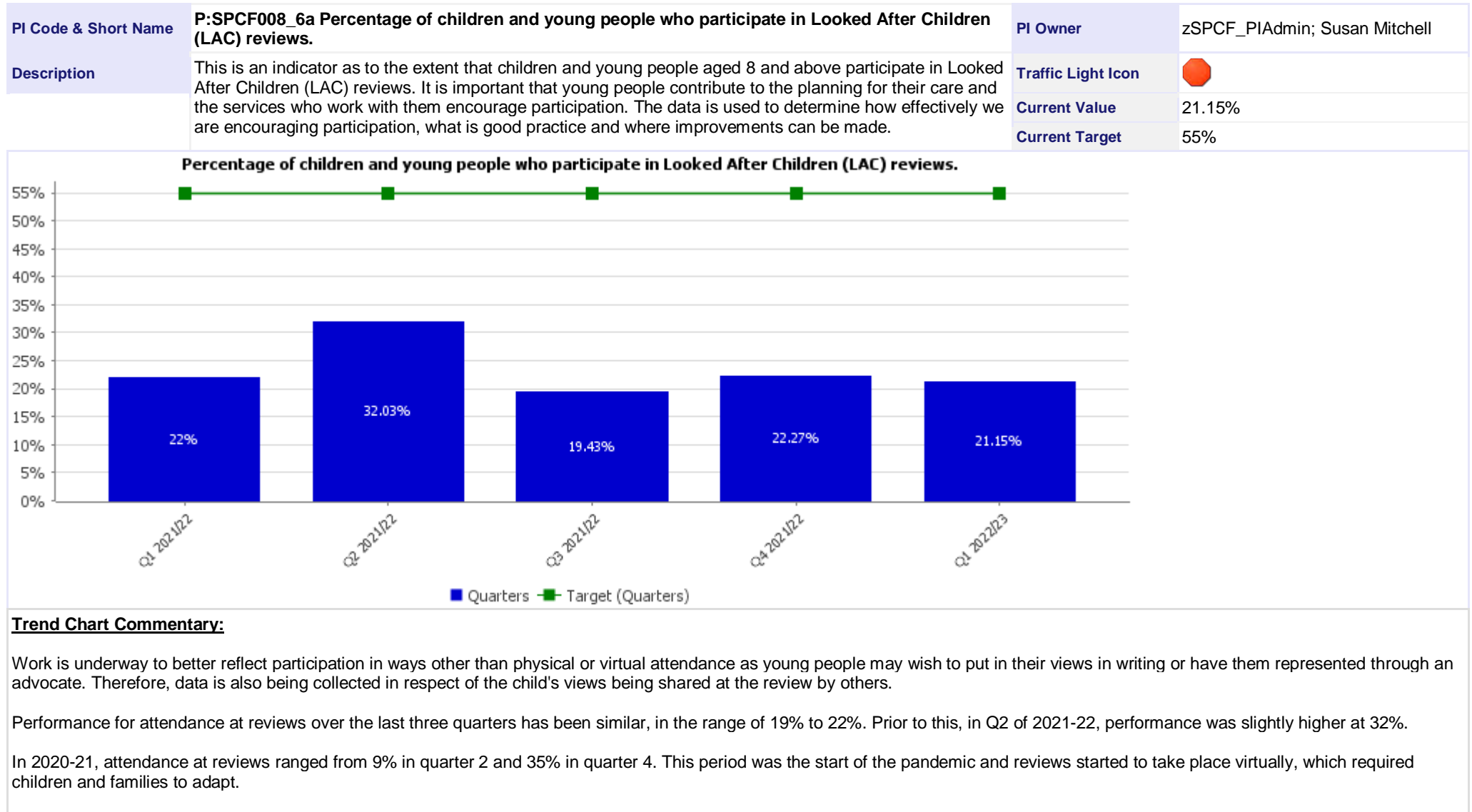
A review of the target value has been undertaken and revised to reflect performance over the reporting period. The revised target has been set at 70 which reflects average number of complaints upheld/partially upheld. Q1 2022/23 notes improving performance in this area however the service remain committed to improving this overall position.

Outcomes of complaints are collated and shared across management team. Analysis of individual complaints identifies no particular trend in relation to complaint themes. Where complaints are upheld/part upheld service improvement actions are identified. These include staff counselling, training or procedural review.

The service will continue to review complaints in this manner in order to progress service improvement

Appendix 1

Data Label: PUBLIC



Appendix 1

Data Label: PUBLIC

Emphasis has continued on ensuring there are different options for participation to ensure children's views are heard and contribute to reviews. This has been by a range of different means including through parents, carers, social workers and advocates, in addition to in writing or viewpoint. Although in 2019/20 the percentage in attendance was higher at between 44 and 53%, there were still a number of children who were not attending their review and so obtaining views by other means is hugely important.

Positively in 2022-23 Q1 and in 2021-22 Q4, for 70% of childcare reviews, the child's views were shared at the review by someone else. This compares to a smaller number in 2021-22 Q3 - in 53% the child's views were shared by someone else. In 2021-22 Q2, at 59% of reviews, views were shared by someone else. Therefore this demonstrates a positive trend in this area.

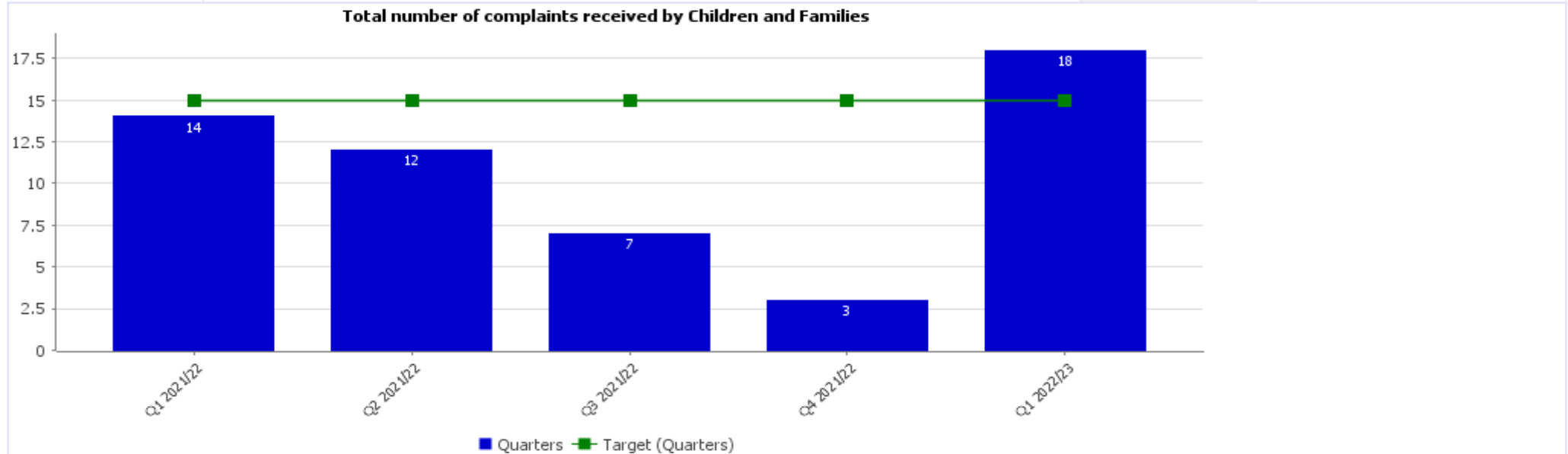
It is important for the service to encourage greater levels of participation from looked after children. This is an area of work ongoing to ensure children's views are captured and attendance is encouraged. The reviewing officers team continue to encouraging attendance and record more fully reasons for non attendance.

The target will remain at 55% for 2022-23 to test whether improvements can be found.

Appendix 1

Data Label: PUBLIC

PI Code & Short Name	P:SPCF040_6b.3 Total number of complaints received by Children and Families	PI Owner	zSPCF_PIAAdmin; Susan Mitchell
Description	This indicator measures the total number of complaints received by Children and Families. This data is recorded on the Council's Customer Relationship Management system. It is the total number of complaints received by Children and Families at stage one (complaints that the council aims to deal with within 5 working days) and those received directly at stage two (more complex complaints that the council aims to deal with within 20 working days). This data is used to understand how well we are delivering our services and where there are opportunities for us to make any improvements.	Traffic Light Icon	✓
		Current Value	18
		Current Target	15



Trend Chart Commentary:

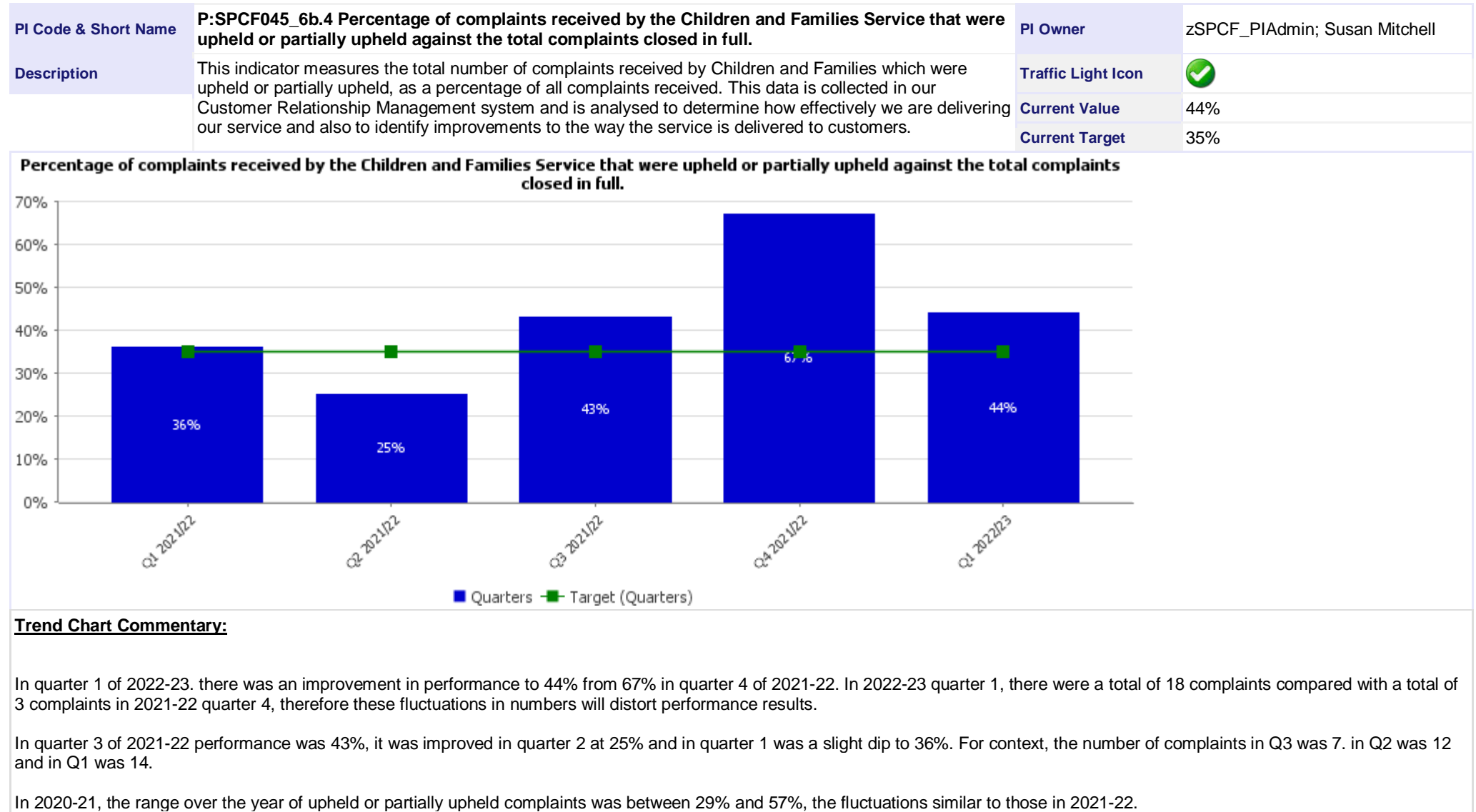
The vast majority of complaints relate to child care and protection and are related to dissatisfaction with decision making and attitude of staff. This is frequently because staff have to deal with challenging behaviour and passing on difficult messages. More recently some issues have arisen relating to lack of communication which has been addressed.

The number of complaints for quarter 1 of 2022-23 was 18, an increase on quarter 4 of 2021-22 when there were 3 and quarter 3 of 2021-22 when there were 7. The number of complaints in quarter 2 of 2021-22 was 12 and in quarter 1 was 14.

In 2020-21, the number of complaints in each quarter ranged from 8 to 14 with quarter 3 and 4 having 14 complaints; quarter 2 had 8 complaints and quarter 1 had 13 complaints.

Due to the nature of service delivered, numbers are difficult to predict.

Therefore the target for 2022-23 is again 15 per quarter.



Appendix 1

Data Label: PUBLIC

Upheld complaints tend to be in relation to attitude and communication which the service is working on.

Most complaints tend to be partially rather than fully upheld. The service is providing more rigour over complaint responses which has resulted in stronger approaches being deployed.

The main issues where complaints were partially upheld included attitude of staff, accuracy of information provided and speed of communication.

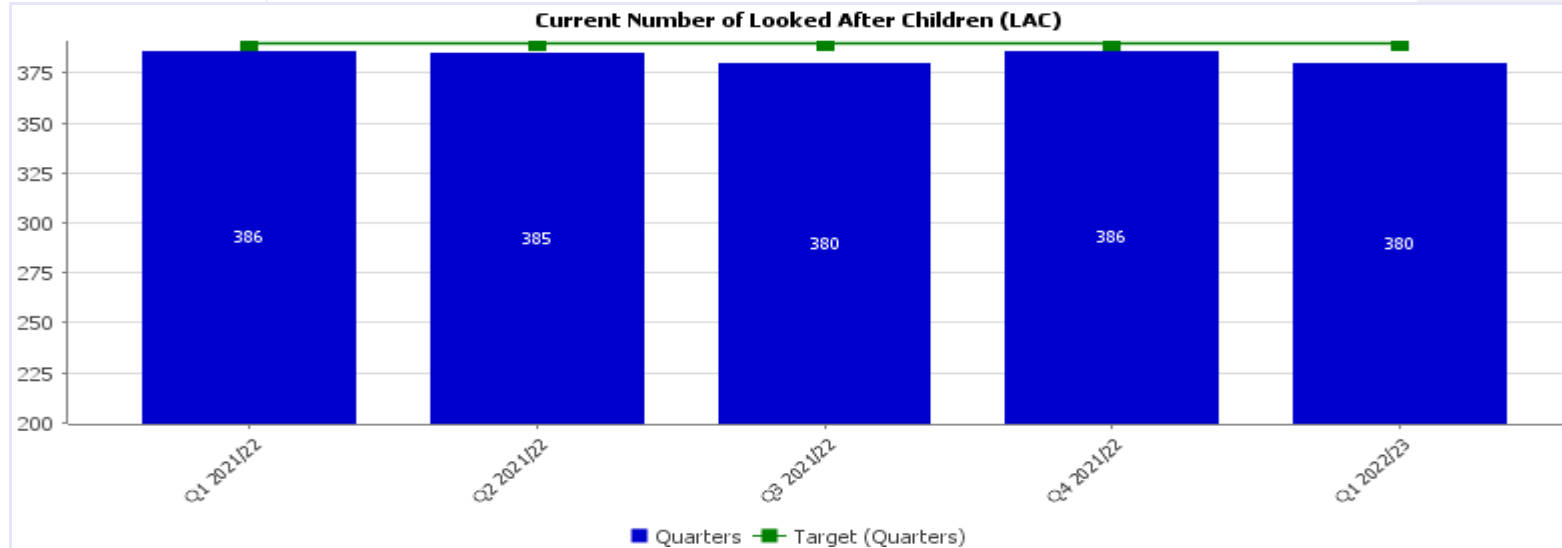
Complaints have been continually reviewed and resolutions included staff training, reminders about relevant processes and individual sessions with staff to highlight where improvement in practice was required.

The target will remain at 35% for 2022/23 as the service feels that reducing the need to uphold more complaints is reflective of a service that aims to improve from feedback and increase the level of satisfaction.

Appendix 1

Data Label: PUBLIC

PI Code & Short Name	P:SPCF090_9b.1b Current Number of Looked After Children (LAC)	PI Owner	zSPCF_PIAAdmin; Susan Mitchell
Description	This is a quarterly snapshot of the current and total number of Looked After Children in West Lothian. This included children who are Looked After at home and away from home by the Local Authority under the provisions of the Children (Scotland) Act 1995. This information is collected as part of our everyday work and recorded on our Social Policy case management system. This indicator is meaningful as the results give an indication of the effectiveness of our work and can be analysed to identify improvements to the way the service is delivered to customers.	Traffic Light Icon	✓
		Current Value	380
		Current Target	390



Trend Chart Commentary:

This is a needs led and fluctuating service controlled to a certain extent by measures imposed by the Childrens Hearing System. Targets are based on Annual Children Looked After Statistics (CLAS Returns).

At the end of quarter 1 of 2022-23, there were 380 looked after children. This figure was relatively stable during 2021-22: in quarter 1 it was 386, in quarter 2 it was 385, in quarter 3 it reduced to 380 and in quarter 4 rose again to 386.

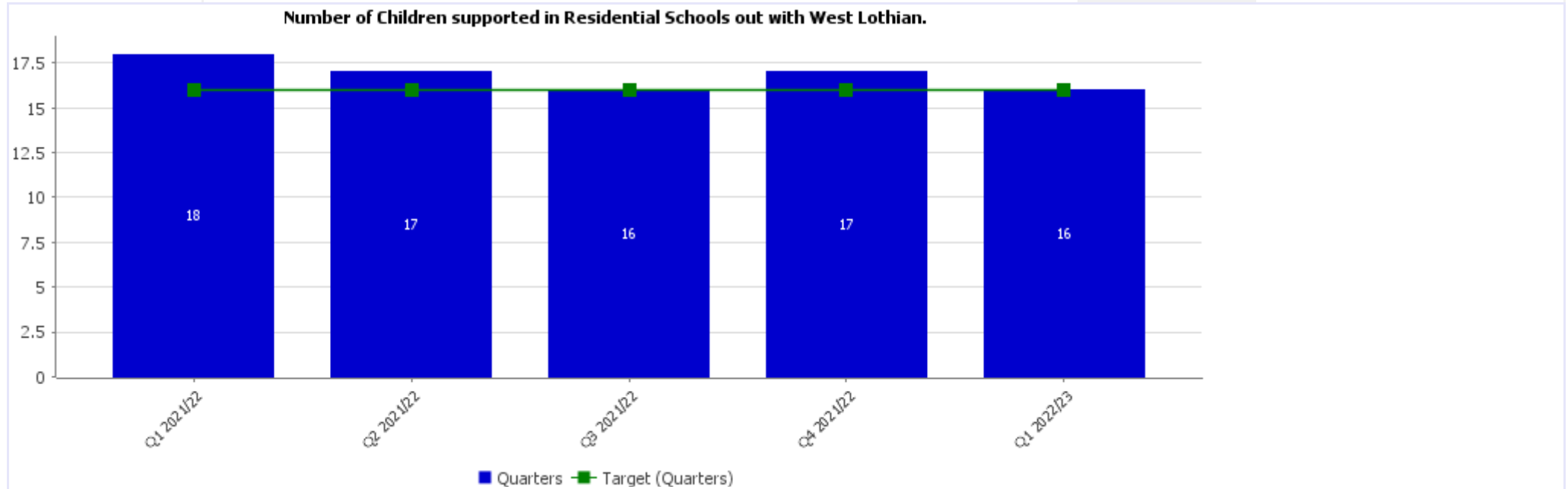
Overall, this is a reduction from 2020-21 when the number ranged from 432 to 387. This has been due to reducing residential provision and looked after at home.

The service intends to develop this as a benchmarking indicator as we can measure West Lothian services against Scotland as a whole and also against other local authorities.

This figure can be very variable and unpredictable due to decisions being made by the Childrens Panel.

The 2022-23 target is set at 390 to reflect the trend over the last 12 months.

PI Code & Short Name	P:SPCF097_9b.1a Number of Children supported in Residential Schools out with West Lothian.	PI Owner	zSPCF_PIAAdmin; Susan Mitchell
Description	This indicator provides valuable information regarding the total number of children placed in residential schools provided by the third or private sector and manage the most challenging behaviour in a dedicated combined educational and care setting. These usually accommodate and care for those children who have been unable to manage in resources within West Lothian. This does not include children with a disability. The indicator tells us how effective services are at enabling children to remain within west Lothian. There are occasions where children's needs are very complex and a specialised resource is deemed necessary through the assessment undertaken on the child. It is important that as far as possible, children are enabled to remain in West Lothian. Therefore, children's services should always be aiming to reduce the need for such provision, by constantly improving the availability and quality of internal resources.	Traffic Light Icon	🟢
		Current Value	16
		Current Target	16



Trend Chart Commentary

Considerable work has taken place to manage numbers to target.

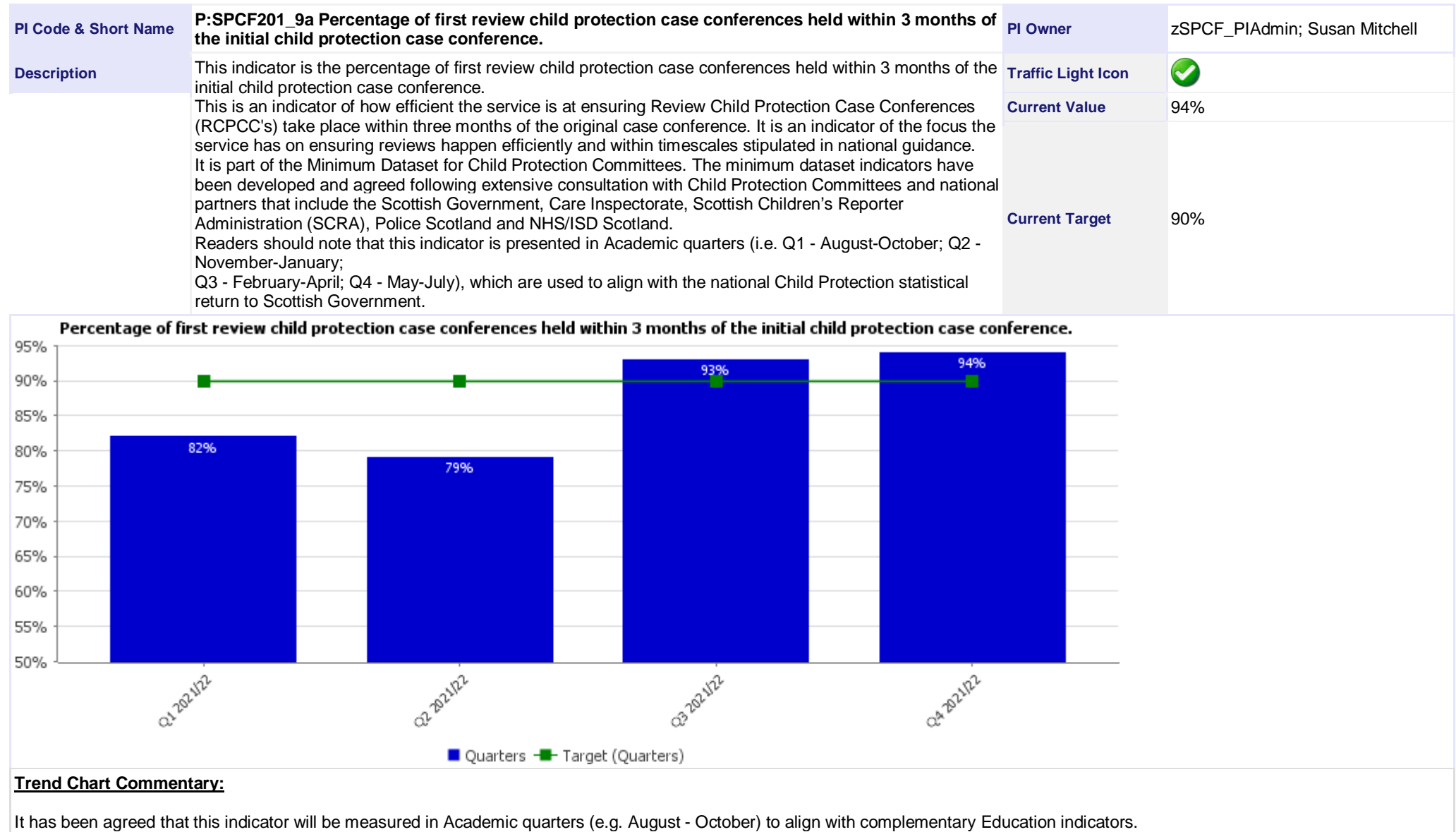
At the end of quarter 1 of 2022-23, there were 16 young people in residential schools. This is a decrease by 1 from 17 at the end of quarter 4 of 2021-22. There were only small fluctuations during 2021-22: in quarter 3 it was also 16, in quarter 2 it was 17 and in quarter 1 it was 18.

The overall trend is one of improvement. During the last year the number has been between 16 and 18, compared with 2020-21 when the number ranged between 19 and 22.

However, the numbers in residential schools are higher than the service would want. This is in part caused by pressures resulting from COVID-19 but also because the ability to move children back from external resources has been hampered. There are additional ongoing pressures caused by the impact of Continuing Care whereby young people are entitled to request to stay in their care placements past the age of 18 and when they cease to be looked after.

Social Policy are striving to provide alternatives within our own internal resources which will aim to help avoid young people being placed in residential schools as far as risks to those children allow. There is also partnership working with other service areas and agencies to support young people moving on to positive destinations from being looked after.

The target will remain at 16 for 2022-23 to reflect service expectations around reducing use of external provision whilst taking account of the significant challenges in this area.



Appendix 1

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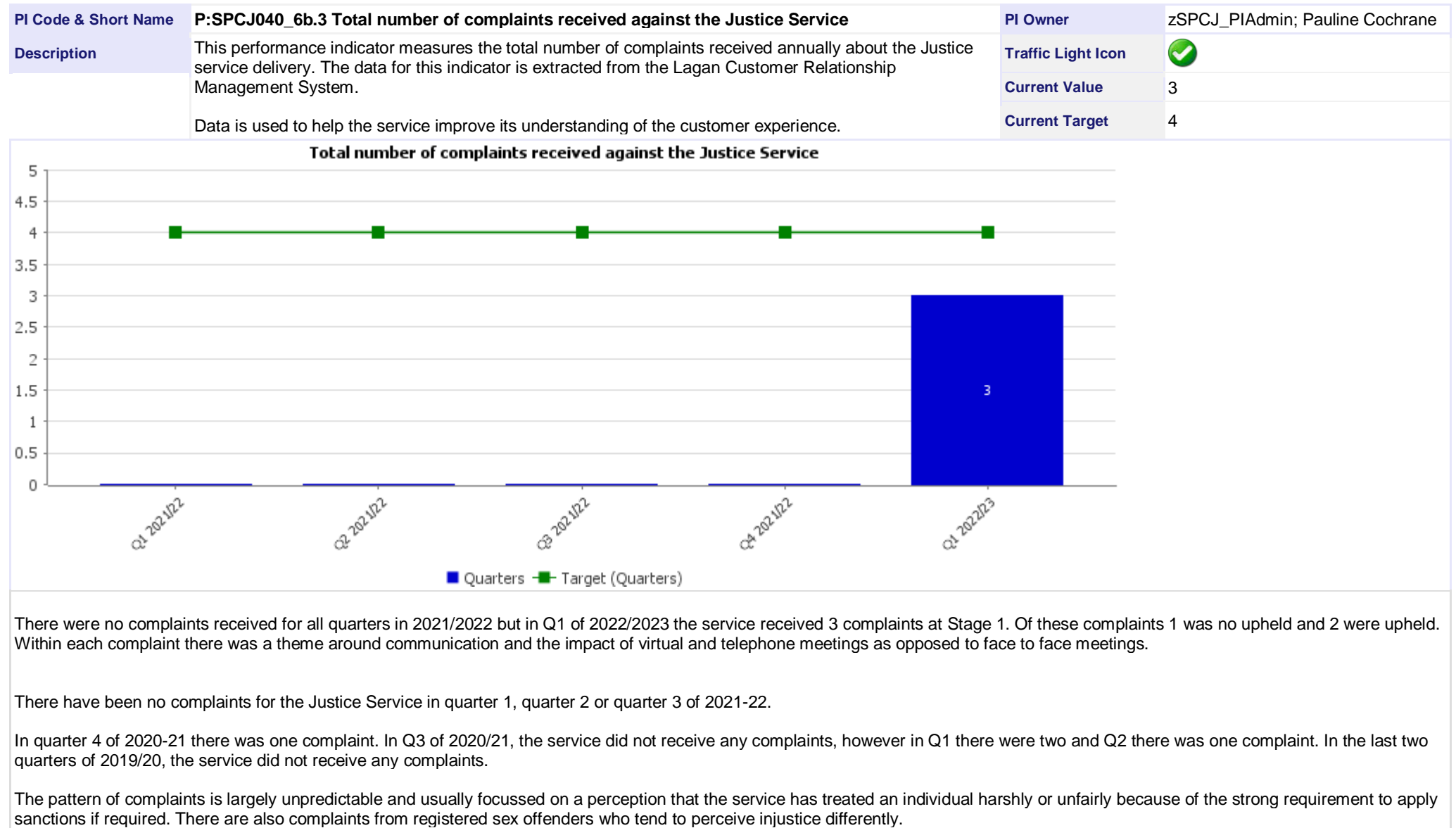
There was a small improvement of those completed within timescales in quarter 4 2021/22 to 93% from 92% in quarter 3 and this again was an improvement from 79% in quarter 2. This was a dip from 82% within timescales in quarter 1. Contributory reasons for lower performance in quarter 1 and 2 were planned leave and pandemic related factors affecting staffing.

In 2020/21, performance was positive the first three quarters (100% in Q1 and Q2; 96% in Q3) but this dipped in Q4 to 86%. There was unpredictable impact on staffing during this period as a result of the pandemic.

The target will remain at 90% for 2022/23, we are keen to improve performance but also achieve consistency whilst accepting that some RCPCC's will take place outwith the timescale for appropriate reasons.

Appendix 1

Data Label: PUBLIC



Appendix 1

Data Label: PUBLIC


Offenders are managed strongly in the community and are required to comply with strict supervision so offenders occasionally complain about statutory decisions which are usually explained clearly.

The complaints received have concerned staff being challenged regarding risk assessment or professional role. Criminal and Youth Justice receive relatively few complaints when compared with other areas of Social Policy

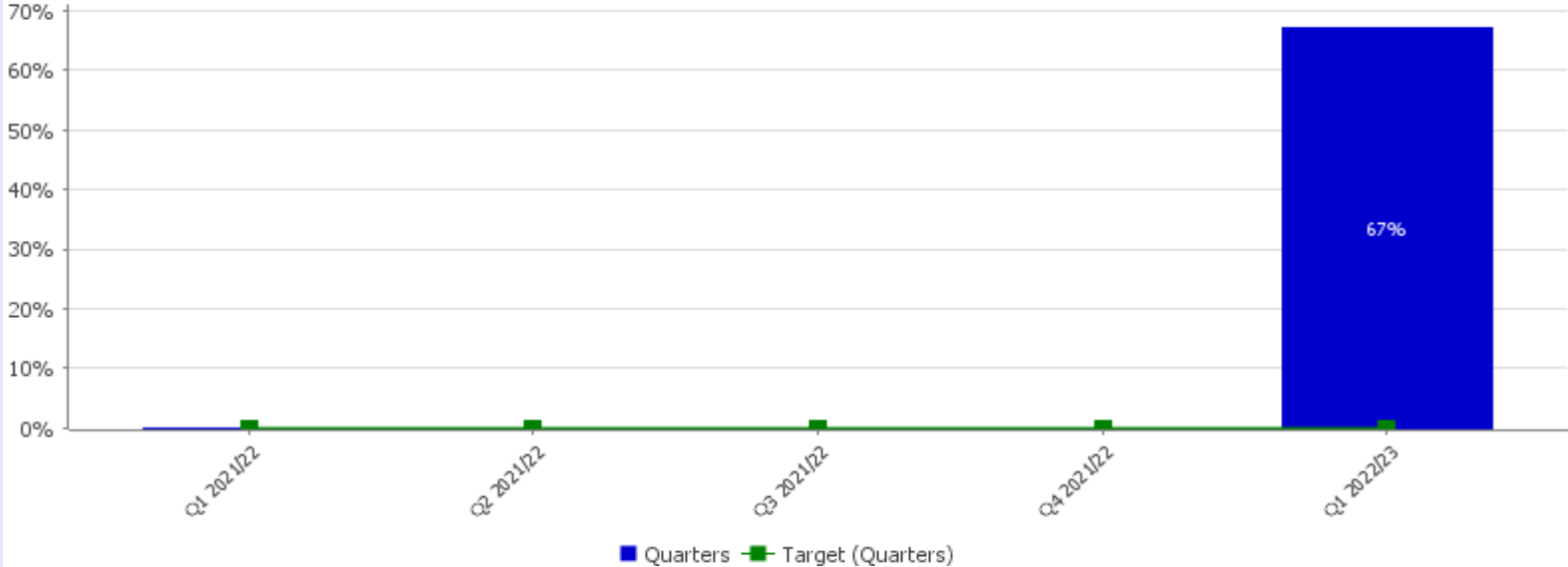
The target will remain at 4 for 2021/22, although this is largely notional and difficult to influence.

Appendix 1

Data Label: PUBLIC

PI Code & Short Name	P:SPCJ043_6b.4 Percentage of complaints against the Justice Service upheld or partially upheld	PI Owner	zSPCJ_PIAAdmin; Pauline Cochrane
Description	This performance indicator measures the percentage of statutory social work complaints received half yearly about the Justice service that were upheld or partially upheld. The data for this indicator is extracted from the Lagan Customer Relationship Management System. The data is used to identify any opportunities for improvement that can be made in the service.	Traffic Light Icon	
		Current Value	67%
		Current Target	0%

Percentage of complaints against the Justice Service upheld or partially upheld



Quarter	Quarters (%)	Target (Quarters) (%)
Q1 2021/22	0%	0%
Q2 2021/22	0%	0%
Q3 2021/22	0%	0%
Q4 2021/22	0%	0%
Q1 2022/23	67%	0%

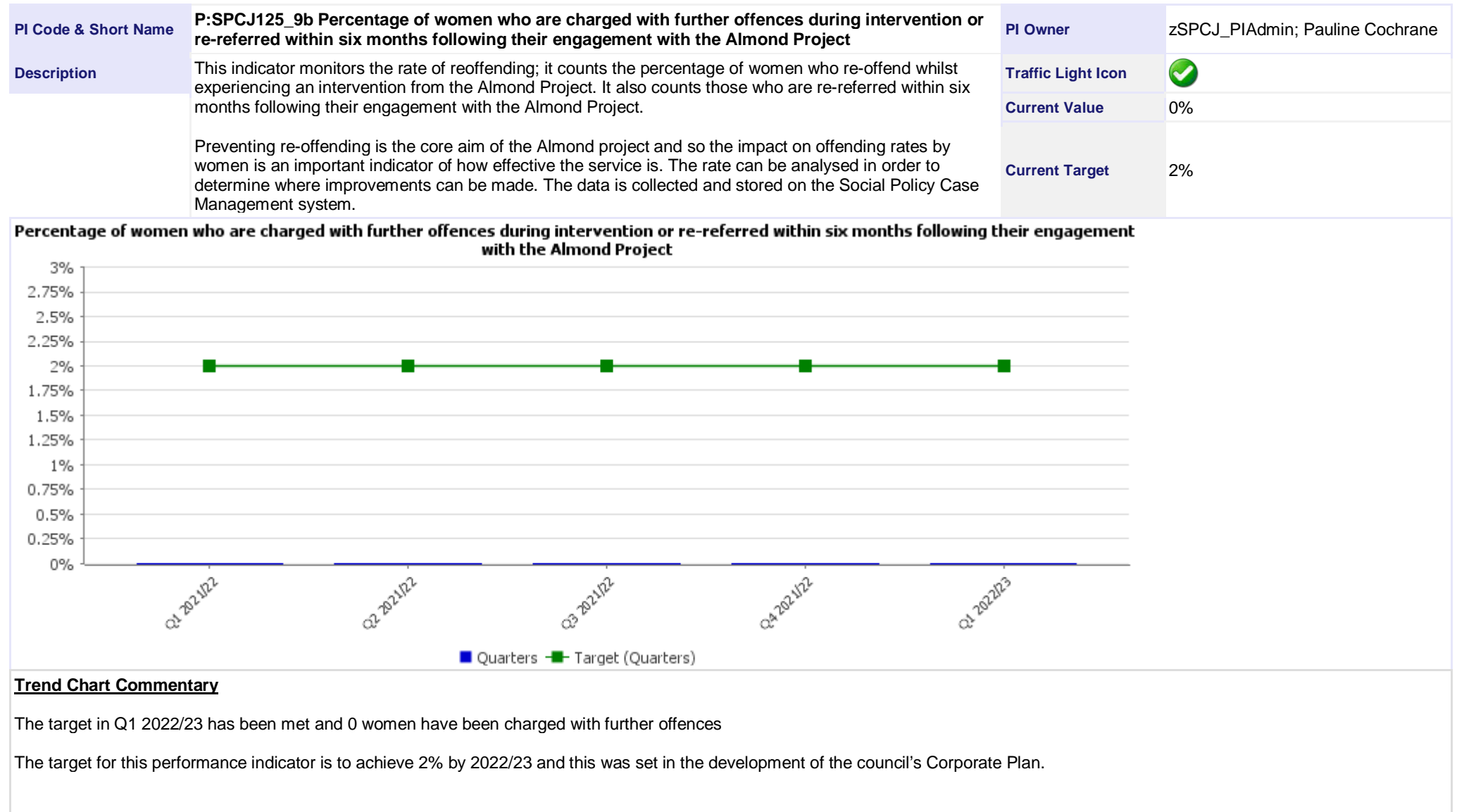
In Q1 2022/23 the service has had 3 complaints all at stage 1 with 2 partially upheld and 1 not upheld thereby exceeding the target setting. The complaints theme was around communication and the impact of not being fully back to face to face meetings following the impact of the pandemic. The target setting remains difficult to set but 0% is no longer realistic so this will be amended to 40%

In 2020/21, the performance has been variable; in Q1 100% of complaints were upheld, or upheld in part. In Q2, no complaints (0%) were upheld and in Q3, no complaints were made with Q4 1 complaint with 0% upheld or partially upheld.

There were no complaints in quarter 1, quarter 2 or quarter 3 of 2021-22 so therefore none were upheld.

The nature of complaints to the Criminal & Youth Justice are often complex and sensitive, however the service receives very few complaints and the results for this indicator can be highly variable. Following analysis of the small numbers of complaints, we have not found any particular trend, or theme that has influenced these results, other than that when we convert the small number of complaints to a percentage count, we see more extreme variation in the result.

Please note that on quarters where there have been no complaints received, there will be no value added, therefore this will show as a blank or missing quarter on the chart.



Tracking and reducing reoffending is a key focus for all Justice services. Women in particular should be targeted in order to ensure they are kept out of the system as much as possible.

For Q1 2022/23 and all quarters of 2021/22, no women involved with the Almond Project re-offended during this period.

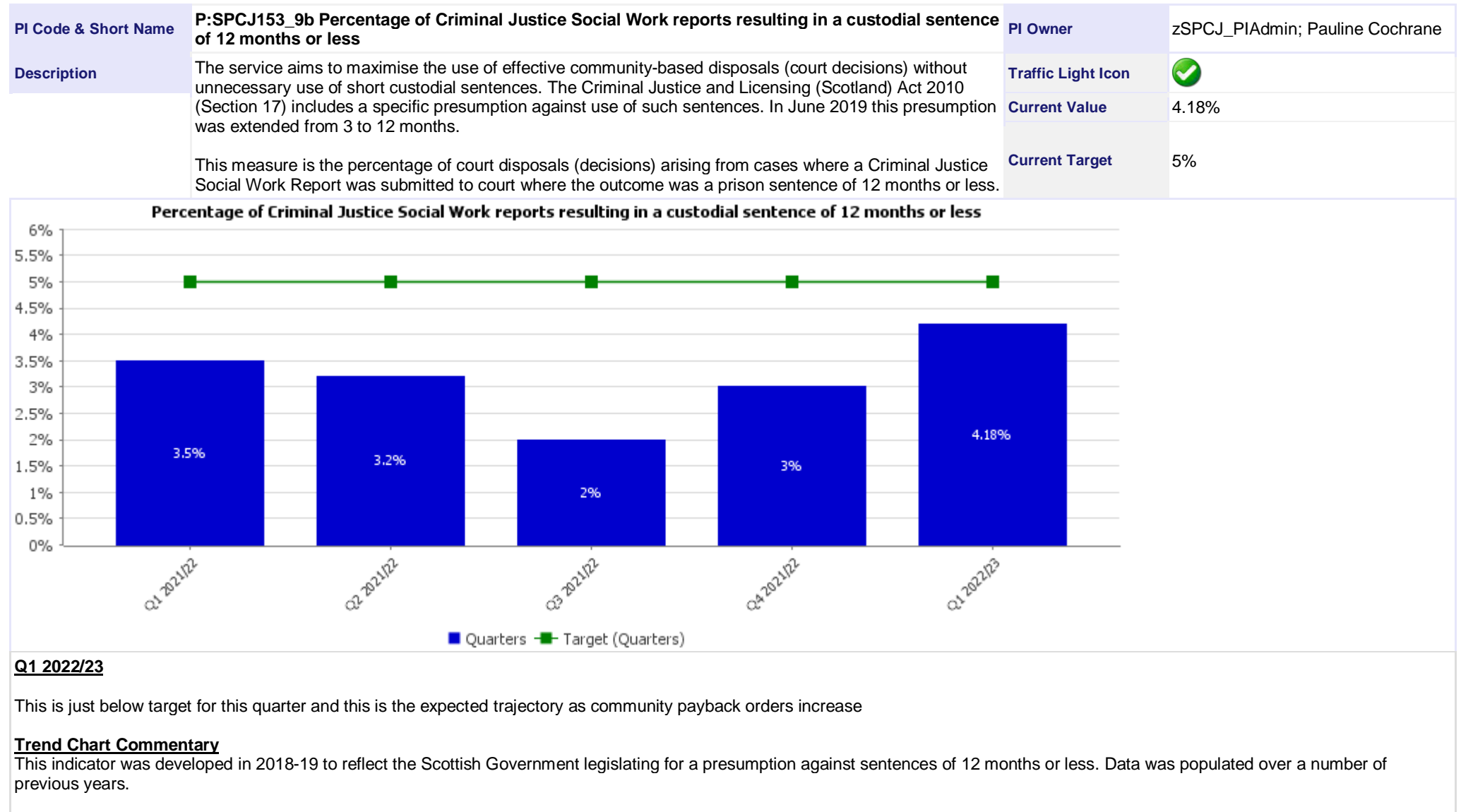
Performance has been very consistent and positive with no women re-offending since Q4 18/19 with the exception of Q3 2020/21 saw 3% (1 from 36) re-offending.

These encouraging trends continues to demonstrate how effective the Almond Project is in reducing the reoffending rates for women. The service should be reviewed given the good performance to see what can learned and implemented in other areas.

Positively a number of successes have been women who historically have been hard to engage and breached community orders.

There are two full time Key Workers in the Project and this is likely to have a positive impact on waiting lists and further improve the effectiveness of the intervention. The service will continually look at new ways to bring more women into the service and out of the adult justice system.

The target for this performance indicator is to achieve 2% by 2022/23 and this was set in the development of the council's Corporate Plan.



Appendix 1

Data Label: PUBLIC

In quarter 1 of 2021-22 there was an improvement to 3.5% from 5.1%. The number of Criminal Justice Social Work reports is starting to increase gradually. Quarter 2 saw a further reduction to 3.2% with 8 custodial sentences from 234 reports submitted. This is continuing evidence of effective reports avoiding custodial sentences where possible. Q3 improved to 2% with Q4 returning to 3%. The increase in Q4 is due to back dated sentences due to long periods of remand due to covid.

During 2020-21 performance varied somewhat and it should be noted that the normal number of reports reduced by around 50% due to the pandemic's impact on the operation of summary courts.

Performance at quarter 4 stood at 5.1% ,11 from 217 reports having resulted in a sentence of 12 months or less, although the impact of the pandemic may well have influenced a reduced use of such sentences and there was a marked reduction of Criminal Justice Social Work Reports.

The baseline target for 2022-23 will remain at 5% but as the policy takes affect the performance target will lower as More Community Payback Orders increase. This will be especially true in the coming years as service begin to return to normal.

Social Work and Health – Policy Development and Scrutiny Plan – Workplan 2022/2023

Title	Responsible Officer	Notes/Comments
27th October		
Social Policy Performance Report Q2	Karen Love/ Robin Allen/ Susan Mitchell/ Pauline Cochrane	
Financial Performance Report	FMU	
Social Policy Contracts Activity Report	Robin Allen	
Carers Strategy Progress update	Karen Love	
Intervening Safely Policy – Children’s Residential Services	Pauline Cochrane	
Reducing Restrictive Practice Policy – Adult Services	Karen Love	
Food, Nutrition and Hydration Policy	Karen Love / Robin Allen	
1st December		
MAPPA Annual Report	Pauline Cochrane	
Strategic Commissioning Plans Update	Yvonne Lawton	
IJB Annual Performance Report	Yvonne Lawton	
2nd February		
Financial Performance Report	FMU	
4th May		

Title	Responsible Officer	Notes/Comments
Social Policy Contracts Activity Report	Robin Allen	
Children's Social Work Statistics	Susan Mitchell/ Pauline Cochrane	
Financial Performance Report	FMU	
22nd June		
Social Policy Management Plan	Jo MacPherson	
Duty of Candour Annual Report	Robin Allen	
Performance Report Q4 and Annual	Karen Love/ Robin Allen/ Susan Mitchell/ Pauline Cochrane	
Financial Performance Report	FMU	