

Public Document Pack



**SCOTTISH BORDERS COUNCIL
THURSDAY, 27 OCTOBER, 2022**

A MEETING of the SCOTTISH BORDERS COUNCIL will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST. BOSWELLS AND MICROSOFT TEAMS on THURSDAY, 27 OCTOBER, 2022 at 10.00 AM.

All Attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days .

J. J. WILKINSON,
Clerk to the Council,
17 October 2022

BUSINESS		
1.	Convener's Remarks.	
2.	Apologies for Absence.	
3.	Order of Business.	
4.	Declarations of Interest.	
5.	Minute (Pages 5 - 18) Consider Minute of Scottish Borders Council held on 29 September 2022 for approval and signing by the Convener. (Copy attached.)	2 mins
6.	Committee Minutes Consider Minutes of the following Committees:- (a) Local Review Body 15 August 2022 (b) Tweeddale Area Partnership 23 August 2022 (c) Innerleithen Common Good Fund 24 August 2022 (d) Planning & Building Standards 5 September 2022 (e) Melrose Common Good Fund 8 September 2022 (f) Galashiels Common Good Fund 8 September 2022 (g) Jedburgh Common Good Fund 12 September 2022 (h) Executive 13 September 2022 (i) Kelso Common Good Fund 13 September 2022	5 mins

	<p>(j) Chambers Institution Trust 14 September 2022 (k) Pension Fund 15 September 2022 (l) Pension Board 15 September 2022 (m) Innerleithen Common Good Fund 15 September 2022 (n) Local Review Body 22 September 2022 (o) Planning & Building Standards 3 October 2022 (p) Executive 4 October 2022</p> <p>(Please see separate Supplement containing the public Committee Minutes.)</p>	
7.	<p>Review Group Update in Connection with Independent Inquiry Action Plan (Pages 19 - 56)</p> <p>Consider report by Director Education and Lifelong Learning. (Copy attached.)</p>	15 mins
8.	<p>Chief Social Worker Annual Report (Pages 57 - 96)</p> <p>Consider report by Director Social Work and Practice. (Copy attached.)</p>	15 mins
9.	<p>Day Services Provision in Teviot and Liddesdale - Next Steps (Pages 97 - 102)</p> <p>Consider report by Chief Officer Health & Social Care Integration. (Copy attached.)</p>	15 mins
10.	<p>Inspire for Learning Presentation</p> <p>Consider presentation by Acting Chief Executive.</p>	15 mins
11.	<p>Licensing of Sexual Entertainment Venues (Pages 103 - 124)</p> <p>Consider report by Chief Legal Officer. (Copy attached.)</p>	15 mins
12.	<p>Scheme of Administration (Pages 125 - 128)</p> <p>Consider report by Acting Chief Executive. (Copy attached.)</p>	10 mins
13.	<p>Questions from the Public at Council Meetings (Pages 129 - 140)</p> <p>Consider report by Acting Chief Executive. (Copy attached.)</p>	15 mins
14.	<p>Committee Appointments</p> <p>Consider appointment of Vice Chair for the Planning and Building Standards Committee/Local Review Body.</p>	5 mins
15.	<p>Appointments to Other Bodies</p> <p>(a) Consider appointment to Wellbeing and Safety Committee to replace Councillor Parker;</p> <p>(b) Consider appointment to SEStran Partnership Board to replace Councillor Cox</p>	5 mins
16.	<p>Open Questions</p>	15 mins
17.	<p>Any Other Items Previously Circulated</p>	
18.	<p>Any Other Items Which the Convener Decides Are Urgent</p>	

19.	<p>Private Business</p> <p>Before proceeding with the private business, the following motion should be approved:-</p> <p>“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 7A to the aforementioned Act.”</p>							
20.	<p>Committee Minutes</p> <p>Consider private Sections of the Minutes of the following Committees:-</p> <table data-bbox="261 712 1214 815"> <tr> <td>(a) Executive Committee</td> <td>13 September 2022</td> </tr> <tr> <td>(b) Chambers Institution Trust</td> <td>14 September 2022</td> </tr> <tr> <td>(c) Pension Fund</td> <td>15 September 2022</td> </tr> </table> <p>(Please see separate Supplement containing private Committee Minutes.)</p>	(a) Executive Committee	13 September 2022	(b) Chambers Institution Trust	14 September 2022	(c) Pension Fund	15 September 2022	1 mins
(a) Executive Committee	13 September 2022							
(b) Chambers Institution Trust	14 September 2022							
(c) Pension Fund	15 September 2022							
21.	<p>Inspire Academy - Building on Success (Pages 141 - 210)</p> <p>Consider report by Director Education and Lifelong Learning. (Copy attached.)</p>	15 mins						

NOTES

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

Please direct any enquiries to Louise McGeoch Tel 01835 825005
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SCOTTISH BORDERS COUNCIL

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells and Via Microsoft teams on 29 September 2022 at 10.00 a.m.

Present:- Councillors W. McAteer (Convener), J. Anderson, D. Begg, P. Brown, C. Cochrane, J. Cox, L. Douglas, M. Douglas, J. Greenwell, C. Hamilton, S. Hamilton, E. Jardine, J. Linehan, N. MacKinnon, S. Marshall, D. Moffat, S. Mountford, A. Orr, D. Parker, J. PatonDay, J. Pirone, C. Ramage, E. Robson, M. Rowley, S. Scott, F. Sinclair, E. Small, A. Smart, H. Steel, R. Tatler, V. Thomson, E. Thornton-Nicol.

Apologies:- Councillors N. Richards, T. Weatherston.

In Attendance:- Director Education and Lifelong Learning, Director People, Performance and Change, Director Resilient Communities, Director Social Work and Practice, Director Strategic Commissioning and Partnerships, Chief Officer Health and Social Care integration, Acting Chief Financial Officer, Chief Legal Officer, Chief Roads Officer, Clerk to the Council.

1. CONVENER'S REMARKS

- 1.1 The Convener commented on the sad passing of HM The Queen and welcomed King Charles III to the throne. A moment of silence was observed.
- 1.2 The Convener congratulated Jacqueline McNeill and Rachel Stewart, managers within Customer Services, who had recently achieved their Institute of Revenues, Rating & Valuation Technician Qualifications in Local Taxation, Revenues & Welfare Benefits. Both received distinctions in their papers with Rachel also achieving the overall Scottish Award for best student of the year.
- 1.3 The Convener commented on Zander Murray, a footballer with Gala Fairydean who had spoken publically about being gay and reminded Members of the importance of the Borders being a fully inclusive area.

DECISION

NOTED and agreed that congratulation be passed to those concerned as appropriate.

2. MINUTE

The Minute of the Meeting held on 25 August 2022 was considered.

DECISION

AGREED that the Minute be approved and signed by the Convener.

3. COMMITTEE MINUTES

The Minutes of the following Committees had been circulated:-

Planning & Building Standards	1 August 2022
Chambers Institution Trust	3 August 2022
Executive	16 August 2022
Peebles Common Good Fund	24 August 2022

DECISION

APPROVED the Minutes listed above.

4. **TWEED FLOOD RISK MANAGEMENT PLAN**

With reference to paragraph 5 of the Minute of 31 January 2019, there had been circulated copies of a report by the Director Infrastructure and Environment seeking approval of the Section 38 Final Reports for the Tweed, Solway and Forth Estuary Local Flood Risk Management Plans (LFRMP), as a true reflection of the progress made during the 6 year Flood Risk Management (FRM) cycle 2016 - 2022 to mitigate flood risk in the Scottish Borders. The report explained that approval was required to allow for the publication of the Section 38 Final Reports for each Local Flood Risk Management Plan in Scotland by December 2022. The inception of the Flood Risk Management (Scotland) Act 2009 (FRM Act) required the production of Local Flood Risk Management Plans covering each Local Plan District (LPD) in Scotland. Scottish Borders Council's area fell within 3 of the 14 Local Plan Districts in Scotland. These were Forth Estuary LPD, Tweed LPD and Solway LPD. There were two sets of complementary plans; Flood Risk Management Strategies which were approved by Scottish Ministers and subsequently published by the Scottish Environment Protection Agency (SEPA) on 22 December 2015 and Local Flood Risk Management Plans produced by Lead Authorities and published 22 June 2016. Scottish Borders Council was the Lead Authority for Tweed Local Plan District. The Flood Risk Management Strategies and Local Flood Risk Management Plans had been developed through collaborative partnerships between Local Authorities, SEPA and Scottish Water. The Flood Risk Management Strategies and Local Flood Risk Management Plans provided a framework for co-ordinating actions across catchments to deal with all sources of flooding. Those plans ensured long term planning around flooding and under Section 41(2) of the FRM Act, Scottish Ministers must take them into account when allocating funding. This approach helped target investment to areas where there was the greatest risk of flooding and where communities could receive the greatest benefit. The Local Flood Risk Management Plans took the objectives and actions identified in the Flood Risk Management Strategies and set out who would be responsible for delivering the action, how the action would be funded, a timetable for when the action would be delivered and how it would be co-ordinated within the first FRM Cycle 2016 - 2022. Section 38 of the Flood Risk Management (Scotland) Act 2009 required that the Lead Authority of each Local Plan District review and publish a Final Report on the progress made in implementing the measures to mitigate flood risk detailed in the relevant Local Flood Risk Management Plan during the first FRM Cycle 2016 - 2022. There was now a need to obtain the Council's approval of the Section 38 Final Reports for the Tweed, Solway and Forth Estuary Local Flood Risk Management Plan for national publication by December 2022. Mr Hedley, Chief Roads Officer, and Mr Morrison, Flood and Coastal Management Team Leader, were present at the meeting and answered Members' questions. Members noted the good work to date but that there were still areas where work needed to be done

DECISION

AGREED to approve the:-

- (a) S38 Final Report for the Tweed Local Flood Risk Management Plan;**
- (b) S38 Final Report for the Solway Local Flood Risk Management Plan; and**
- (c) S38 Final Report for the Forth Estuary Local Flood Risk Management Plan.**

CHAIR

Councillor Greenwell chaired the meeting for the following item to allow the Councillor McAteer to participate in the debate.

5. **CARE VILLAGE DEVELOPMENT - HAWICK**

With reference to paragraph 7 of the Minute of 25 November 2021, there had been circulated copies of a report by the Chief Officer Health and Social Care Integration presenting the Outline Business Case (OBC) Initial Assessment to Council for Hawick Care Village provision, and to set out the next steps for a detailed options appraisal and development of the final Outline Business Case. The Draft Revenue & Capital Investment Plan (Revenue

2021/22 - 2025/26, Capital 2021/22-2030/31) agreed on 19 March 2020 included an allocation of £22.679m for “new residential care provision” for Tweedbank and Hawick. The Outline Business Case Initial Assessment was contained in Appendix 1 to the report. This Assessment included:-

- the strategic case for change,
- existing property considerations,
- desired scope of service requirements including initial findings of the consultation exercise undertaken with Hawick and Area stakeholders,
- current options that had been identified and that would be further developed and appraised as part of the development of the final OBC for Hawick Care Village provision

To aid the identification of further options, a market sounding exercise had been undertaken to determine potential interest from external sources to work in partnership in the development of a new care village in Hawick and the report detailed the current options identified. Following the OBC Initial Assessment, the options would be further developed, short listed and then appraised as part of the development of the final OBC for the Hawick Care Village. The final OBC would be submitted to the H&SC Integration Joint Board and to Council for consideration in early 2023. Members welcomed the report, and the importance of finding the right solution for Hawick which could be delivered without delay was emphasised. The increasing demand for such care was highlighted, as was affordability.

DECISION

AGREED to:-

- (a) note that the Outline Business Case (OBC) Initial Assessment, as contained in Appendix 1 to the report, was considered by the Integration Joint Board on 21 September and the current options that would be taken forward and appraised within the development of the final OBC for Hawick Care Village provision;**
- (b) the assessment criteria, weighting and scoring that would be used for the option appraisal, as set out in the OBC Initial Assessment; and**
- (c) approve the timeline and next steps for the development of a final OBC to be submitted to the Integration Joint Board and to Council in early 2023.**

6. SCOTTISH BORDERS LOCAL CHILD POVERTY REPORT 2021/22 AND ACTION PLAN

There had been circulated copies of a report by the Director Resilient Communities presenting the Scottish Borders Local Child Poverty Report for 2021/22 and Action Plan for 2022/23, contained in Appendix 1 to the report, for endorsement before submission to Scottish Government. The report explained that The Child Poverty (Scotland) Act 2017 required Local Authorities and Health Boards to jointly prepare a Local Child Poverty Action Plan Report and an Annual Progress Report. The report provided Scottish Borders Council and Scottish Government with an update on progress made in the Scottish Borders against activities within the Action Plan for 2021/22 and set out planned actions in 2022/23. The direct drivers of poverty fell in to three main categories – income from employment, costs of living and income from social security, and the actions were focused around those themes. The report contained child poverty data for the Scottish Borders and the actions which were being taken to alleviate the situation by Scottish Borders Council, NHS Borders and other key partners. The Director answered Members’ questions and it was noted that many of the challenges being faced by families were outwith the control of the Council but that every effort would be made to help face these challenges. It was further noted that Challenge Poverty Week would be held from 3-9 October and information would be issued to Members.

DECISION

AGREED to endorse the Scottish Borders Local Child Poverty Report for 2021/22 and Action Plan for 2022/23 for submission to Scottish Government.

DECLARATION OF INTEREST

Councillor Anderson declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

7. REVIEW OF FOSTER CARER RATES, ALLOWANCES AND FEES

There had been circulated copies of a report by the Director Social Work and Practice proposing an increase in the mileage rate for Foster Carers and a formal process of reviewing allowances and fees for carers. Since 2004, Scottish Borders Council's foster carers had been paid 35.1p per mile for use of their private vehicles when the journey was in addition to "day to day" expenses. This mileage rate had remained static and no review had taken place. It was now considered appropriate to review the mileage rate for foster carers and align this to the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p thereafter; this rate applied to SBC employees and volunteer drivers who used a private car for business mileage. The rate applied across all fuel types. At the time of the current mileage rate of 35.1p per mile being agreed, foster carers were travelling a total of c. 93,000 miles per annum. Whilst the number of miles had reduced since this time, and had been impacted as a result of restrictions during COVID-19, foster carers continued to utilise their own vehicles for activities additional to "day to day" business. It was therefore proposed that approval be given to remunerate foster carers at the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p per mile thereafter, when the journey was additional to "day to day" expenses, and that this change would take effect from 1 August 2022. It was further proposed that a formal process of reviewing allowances and fees for carers would be introduced and that this form part of the annual budget setting process, and be informed by officers. Members welcomed the report and the need to attract more foster carers.

DECISION

AGREED:-

- (a) to remunerate foster carers at the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p thereafter, when the journey was additional to "day to day" expenses, and that these rates commence with effect from 1 August 2022; and**
- (b) that a formal process of reviewing allowances and fees for carers be introduced, and that this form part of the annual budget setting process, and was informed by Officers.**

MEMBER

Councillor Anderson re-joined the meeting.

8. QC INQUIRY UPDATE

With reference to paragraph 9 of the Minute of 25 August 2022, the Director Education and Lifelong Learning reported that the Review Group continued to meet on a fortnightly basis and was focusing on particular themes. The HR actions had now been carried out and details of these would be reported to Council on 27 October 2022. The themed Social Work meeting had looked at the development of Child Protection procedures with Councils covering the Lothians. Unfortunately this work had not progressed as quickly as hoped and an updated timeline would also be provided in October.

DECISION

NOTED the update.

DECLARATION OF INTEREST

Councillor Rowley declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct. Councillor Rowley had joined the meeting via Microsoft Teams and left the meeting during the discussion.

9. LICENSING OF SHORT TERM LETS

With reference to paragraph 13 of the Minute of 25 August 2022, there had been circulated copies of a report by the Chief Legal Officer providing Members with an opportunity to consider the terms of the draft short term lets licensing policy which the Council required to implement following the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 1982. At its meeting on 25 August 2022, Council had been provided with a briefing on the requirements of the new mandatory licensing system for short term lets which all local authorities were required to establish. Thereafter, at its meeting on 26 August 2022, the Council's Civic Government Licensing Committee agreed to recommend to Council that a 3 week statutory consultation be carried out on the draft policy as contained in Appendix 1 to the report. The report detailed the scope of the Licensing Scheme, the timescale for introduction and the fee structure. The report also explained that in addition to the introduction of the licensing scheme for short term lets, new planning regulations were brought into force in April 2021. The Town and Country Planning (Short Term Let Control Areas) (Scotland) Regulations 2021 provided a mechanism for the Council, as planning authority, to establish short term let "control areas" which aimed to help manage high numbers of short term lets. Under those regulations, the Council, as planning authority, could establish areas where any property operating as a short term let for more than 28 days a year had to apply for planning consent as it was considered a change of use. It was proposed as part of the draft policy not to designate any short term control areas meantime but this would be reviewed on a regular basis. The Chief Legal Officer advised that the Licensing Team would provide assistance to property owners to ensure the process was as easy as possible. In response to a request she confirmed that the statutory designations relating to property types would be included. A further report would be brought to Council following the statutory consultation period to agree the licensing policy and fee structure.

DECISION

AGREED to:-

- (a) approve the draft short term lets licensing policy as detailed in Appendix 1 to the report: and**
- (b) instruct the Chief Legal Officer to conduct the statutory consultation required on the content of the draft short term lets licensing policy and to report to Council on the outcome of that consultation.**

MEMBER

Councillor Rowley re-joined the meeting online.

10. COMMON GOOD HERITABLE AND MOVEABLE ASSETS REGISTERS

There had been circulated copies of a report by the Director Finance and Corporate Governance seeking approval to publish the final Common Good Register for the Council's twelve Common Good Funds. The report explained that under the Community Empowerment (Scotland) Act 2015 the Council was required to establish and maintain a register of property which was held by the authority as part of the Common Good. Before establishing a Common Good register, the Act required the Council to publish a list of property that it proposed to include in the register and to consult the public on this list. Each individual Common Good Fund Sub-Committee had approved its respective draft asset register in December 2021 and agreed to the commencement of the public consultation. The consultation ran from December 2021 to 31 March 2022. Following completion of the consultation, each Common Good Fund Sub-Committee had then considered the responses received to the consultation relative to that Fund, and approved its section of the final register. The report recommended to Council the combined register contained in Appendix 1

to the report and sought approval of that register for publication. It was noted that amendments could be made to the register in the future if further assets were identified. Members thanked Mrs MacLeod, Principal Solicitor, for her work on this matter. The Convener advised that Mrs MacLeod was leaving her post with the Council, thanked her for her contribution and wished her well for the future.

DECISION

AGREED to:-

- (a) approve the contents of the final list of heritable and moveable property assets held by the Council within the former Burghs of Coldstream, Duns, Eyemouth, Galashiels, Hawick, Innerleithen, Jedburgh, Kelso, Lauder, Melrose, Peebles and Selkirk (“the Common Good Register”) as set out in Appendix 1 to the report;**
- (b) to publish the Common Good Register; and**
- (c) note that, following publication, the Common Good Register would be reviewed every five years, or at such time as relevant new information became available.**

11. DRAFT CALENDAR OF MEETINGS OCTOBER 2022 – JULY 2023

With reference to paragraph 14 of the Minute of 25 August 2022, there had been circulated copies of a draft calendar of meetings covering the period 1 October 2022 to 31 July 2023 which had been prepared to take account of the amendments to the Scheme of Administration. It was noted that changes had been made to the days on which some Committees met and it was agreed that those committees affected by such changes be given delegated powers to consider and agree any amendment to meeting dates which might be required.

DECISION

AGREED to approve the draft Calendar of Meetings for the period 1 October 2022 to 31 July 2023 subject to delegation of powers to individual Committees to amend meeting dates as required.

12. ELECTED MEMBERS CHAMPIONS ROLE

- 12.1 With reference to paragraph 6 of the Minute of 26 May 2022, there had been circulated copies of a report by the Acting Chief Executive seeking approval for the Elected Member Champions’ roles and remits and also the appointment of two new Champions – for Creative Industries and Mental Health. At its meeting on 26 May 2022, Scottish Borders Council appointed Elected Members to 11 Champions roles. To provide clarity for the Councillors undertaking a Champion role, officers were asked to provide further details on their remit. Details of roles and remits for each Champion were provided in the Appendix to the report. It was intended that the Champions would work to ensure that the voices of those they were supporting would be heard; that they would raise awareness of the challenges facing their particular sector; that they would help shape priorities, launch new initiatives, participate in focus groups, attend local and national meetings as appropriate, and undertake any other relevant activities. The role of the Champion was apolitical with a focus on representing those in their particular sector. It was also proposed that the Champions meet as a minimum on a six monthly basis to discuss their respective areas of interest and update each other on their activities. To avoid confusion, it was further proposed that the title of some of the Champions roles appointed on 26 May would now be changed to better reflect the roles. The report also asked Council to appoint two new Champions to promote the Creative Industries and Mental Health.
- 12.2 Councillor Smart, seconded by Councillor Brown, nominated Councillor Paton Day as the new Champion to promote the Creative Industries and this was unanimously approved.
- 12.3 Councillor Jardine, seconded by Councillor Pirone, nominated Councillor Linehan as the Champion for Mental Health and this was unanimously approved.

**DECISION
AGREED:-**

- (a) to approve the change in titles of the following Champions –
 - (i) Opportunities for Young People Champion changed to Employment Opportunities Champion
 - (ii) Education & Young People Champion changed to Young People’s Champion;
 - (iii) Deaf Community Champion changed to Deaf People’s Champion;
 - (iv) Dementia Champion changed to People Living with Dementia Champion; and
 - (v) Wellbeing & Safety Champion changed to Safety Champion;
- (b) to approve the Elected Member Champions’ roles and remits as detailed in the Appendix to the report;
- (c) to appoint Councillor PatonDay as the new Creative Industries Champion and Councillor Linehan as the new Champion for Mental Health; and
- (d) that the Elected Members Champions meet as a minimum on a six monthly basis to discuss their respective areas of interest and update each other on their activities.

DECLARATION OF INTEREST

Councillors Cox, Marshall, McAteer and Ramage declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the meeting during the discussion. Councillor Ramage remained in the meeting to present the application but left prior to the discussion.

CHAIRMAN

In the absence of Councillor McAteer, Councillor Greenwell chaired the meeting for the following item of business.

13. HAWICK COMMON GOOD FUND – REQUEST FOR FUNDING

With reference to paragraph 3 of the Minute of the Hawick Common Good Fund Sub-Committee held on 25 August 2022, there had been circulated copies of an application for financial assistance from Hawick Honorary Provost’s Council (HHPC) for £2,500 to support the carrying out of civic duties in Hawick included the funding of outside catering and presents for those being recognised for what they have achieved or contributed to their community. Members were advised that as the majority of Members of the Hawick Common Good Fund Sub-Committee were also Members of the HHPC it was necessary for the decision to be taken by Council. Councillors Smart and Moffat suggested amendments in terms of how this funding should be applied for in future and a suggested continuation for further information. However, as no amendments relating to this matter had been lodged in advance of the meeting, the Vice Convener refused to accept them. On that basis it was agreed that the funding application be approved.

DECISION

AGREED that a grant of £2,500 be given from the Hawick Common Good Fund to the Honorary Provost’s Council.

MEMBERS

Councillors Cox, Marshall, McAteer, Ramage re-joined the meeting and Cllr McAteer resumed the chair.

14. APPOINTMENTS TO THE EDUCATION SUB-COMMITTEE

14.1 With reference to paragraph 14 of the Minute of 25 August 2022, it was noted that appointments were required in respect of the Education Sub-Committee. Councillor L. Douglas moved that in terms of Standing Order No. 51 that the decision made in August be amended with regard to the membership of the Sub-Committee. This was unanimously supported. Councillor L. Douglas, seconded by Councillor S. Hamilton, moved the following Motion:-

- “(a) given the changes to the titles for Elected Members Champions and to increase the number of members on the Education Sub-Committee that the membership should comprise:
- (i) The Executive Member for Education and Lifelong Learning (Chair)
 - (ii) The Executive Member for Developing Our Children & Young People
 - (iii) The Elected Member Champion for Young People
 - (iv) The Elected Member Champion for Learning & Physical Disabilities
 - (v) Three other members of the Administration
 - (vi) Two other members from out-with the Administration
- (b) To appoint three other members of the Administration and two other members from out-with the Administration to the Education Sub-Committee.”

The Motion was unanimously approved.

14.2 Councillor Jardine, seconded by Councillor L. Douglas, moved that Councillors Greenwell, Richards and Scott be appointed in respect of (v) above and this was unanimously approved.

14.3 Councillor Thornton-Nicol, seconded by Councillor Moffat, moved that Councillors Robson and Sinclair be appointed in respect of (vi) above and this was unanimously approved.

**DECISION
AGREED:-**

- (a) **Given the changes to the titles for Elected Members Champions and to increase the number of members on the Education Sub-Committee that the membership would comprise:**
- (i) The Executive Member for Education and Lifelong Learning (Chair)**
 - (ii) The Executive Member for Developing Our Children & Young People**
 - (iii) The Elected Member Champion for Young People**
 - (iv) The Elected Member Champion for Learning & Physical Disabilities**
 - (v) Three other members of the Administration**
 - (vi) Two other members from out-with the Administration**
- (b) **To appoint Councillors Greenwell, Richards and Scott as the three other members of the Administration and Councillors Robson and Sinclair as the two other members from out-with the Administration to the Education Sub-Committee.**

15. OPEN QUESTIONS

The questions submitted by Councillors Ramage and Anderson were answered.

**DECISION
NOTED the replies as detailed in Appendix I to this Minute.**

MEMBER
Councillor Parker left the meeting during the above item.

16. **URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make to keep Members informed.

17. **COURT JUDGEMENT – DAY SERVICES**

There had been circulated copies of a report by the Chief Legal Officer (Monitoring Officer) advising Members of the content and effect of a decision of the Court of Session which was issued on 20 September 2022. The report explained that in June 2019, the Executive Committee had decided that it would decommission the then existing Day Centres. One of those centres was the Teviot Day Centre in Hawick. In late 2021 a Petition was lodged in the Court of Session seeking a Declarator that the decision was unlawful. The case was heard by Lady Carmichael on 28 April 2022. On 20 September, Lady Carmichael issued her judgment. She found that the Council's decision to close the Teviot Day Centre was unlawful and she "reduced" that decision. That meant, in effect, that the Council had not decided to close that Centre. The Court found that SBC had failed to properly undertake an Equality Impact Assessment and, also, that it had failed to properly consult with affected parties. The Council now required to reach a decision on how best to provide services for those adults in need of day care in the Hawick area. In doing so, it must ensure it complied fully with the Court Judgment. A further report would be brought to Council in October providing further detail on the next steps. The Chief Legal Officer advised that she was meeting with Counsel the following day to seek advice on the way forward. The Leader, Councillor Jardine, apologised unreservedly to all service users and acknowledged that the Council had made the wrong decision and needed to learn for it. It was a timely reminder that every decision the Council took had an impact on someone. The Chief Officer Health and Social Care Integration advised that discussion had already taken place with carers and it was essential that the next steps were co-produced and to agree with carers what "good" looked like. This would be a fresh process as the situation had now changed from that in 2019.

DECISION

AGREED to:-

- (a) note the update on the Court Judgement with regard to Teviot Day Centre; and
- (b) receive a further report at the next meeting of Council in October 2022 on the next steps in reviewing Day Service provision in Teviot and Liddesdale.

18. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 6, 8 and 9 of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

19. **Minute**

The private section of the Council Minute of 25 August 2022 was approved.

20. **Committee Minutes**

The private sections of the Committee Minutes as detailed in paragraph 3 of this Minute were approved.

The meeting concluded at 12:55 p.m.

SCOTTISH BORDERS COUNCIL
29 SEPTEMBER 2022
APPENDIX I

OPEN QUESTIONS

Questions from Councillor Ramage

1. To Executive Member for Developing Our Children and Young People

Finance for foster carers. SBC foster carer allowance are made up of the following.

1. Additional food costs
2. Utilities bills, including phone.
3. Insurance
4. General wear and tear
5. Additional travel including mileage reimbursement
6. Child care and activities.

What additional funding is in place to provide adequate funding for the children SBC have the duty of care for?

Points 1 & 2(above) in daily life have increased by a minimum of 8%. What % increase has been made to ensure our LAC (Looked after children) are adequately cared for?

Response from Councillor C Hamilton

There has been no % increase in funding provided to carers in relation to food costs or utilities bills as a result of inflationary increases, however if a child requires additional funding to meet their need this is provided through discussion with the child's social worker on a case by case basis.

For the financial year 2022-23 an increase of 3% was provided to foster carers' fees and allowances, and this was agreed by Council during the budget setting process. Every foster carer receives a weekly fee plus weekly allowance.

The current fees are:

- Level 1* - £173.16 per week per child
- Level 2 - £230.93 per week per child

*Level 1 is paid to all new carers and for minimum of 3 years until all mandatory training is completed. The majority of Scottish Borders foster carers are Level 2.

The current allowances are:

- Age 0-10 years - £136.52 per week per child
- Age 11 plus - £204.74 per week per child

An allowance of £20.60 per month for telephone and broadband is also paid

Additional payments include:

- 1 week allowance payment for each child's birthday
- 1 week allowance payment for each child at Christmas
- 2 weeks allowance additional payment for each child at Summer
- Carers are provided full fee and allowance for each child if they are taking a short break - up to 30 days per year
- Additional payment is provided for equipment needed for the child e.g. car seats, beds, prams, etc.
- If a carer does not have a child in placement, a retainer fee of £114.29 per week is paid

A paper is due to be presented at Council on 29 September 2022 recommending an uplift to the foster carer mileage rate, to remunerate foster carers at the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p thereafter.

The report also recommends a more systematic approach to reviewing allowances and fees paid to foster and kinship carers.

The National Review of Care Allowances reported in September 2018, and made a number of recommendations including that the Scottish Government and CoSLA consider a Scottish Recommended Allowance for children in kinship and foster care. Whilst work is underway regarding the introduction of the Scottish Recommended Allowance it is likely that this may take time to be agreed and implemented.

2. To the Executive Member for Education and Lifelong Learning

Can you tell me how the Nurture Policy was formulated and from what Authority it was based on?

Response from Councillor L. Douglas

The purpose of the Nurturing Approaches Guidelines ties in with both the Inclusion Framework and Inclusion Policy that were brought to and shared with the Executive Committee in January 2020.

The documents were formulated in response to feedback from school staff from the Inclusion Audit in November 2018. Nurturing approaches is an evidenced-based approach and is informed by data and research – it has been promoted as a key approach to supporting behaviour, wellbeing, attainment and achievement in Scottish Schools in a number of policy documents including “Included Engaged and Involved, Part 2” and “Better Relationships, Better Learning and Better Behaviour”.

Education Scotland fully endorse and promote nurturing approaches and have provided a toolkit and framework for all schools. A number of other Local Authorities have evidenced success in using nurturing approaches to reduce the poverty related attainment gap and reducing school exclusions – but should be noted that embedding these approaches takes years. We introduced our first training in November 2020. We visited Glasgow City Council and North Ayrshire to speak to their Educational Psychology Service who led on their journey.

Supplementary

Councillor Ramage asked what was wrong with the previous pastoral support model which met the needs of all children rather than a policy which only served troubled children. Councillor Douglas advised that the policy would take time to embed and training to upskill staff was ongoing. Bullying was a difficult topic and needed to be dealt with on a case by case basis. The aim was to avoid exclusion from school.

3. To the Executive Member for Social Work and Community Enhancement

For the response to the supplementary question of 30/1/20 the Council was advised that a risk of successful legal challenge, similar to McHattie vs South Ayrshire Council, was “unlikely” and on what actual, evidential assessment was this advice proffered?

What actions will the Council now undertake, with urgency, and in accordance with Lady Carmichael’s instructions, to redress the unlawful actions the Council has taken, not just with regard to Teviot Day Service but in respect of all Day Service closures across the Borders?

Response from Councillor Parker

When the McHattie judgment was issued, its terms were carefully considered. It was noted that the Court, in that case, had intimated that there had been no EIA prepared at all before the decision to close the relevant centre had been taken.

The relevant Officers advised, at that time, that an EIA had been prepared regarding Day Centres in the Scottish Borders and that it had been kept under regular review. The view

was expressed that it was considered to be a substantial document and that it would stand up to scrutiny.

Further information on the next steps is included in item 20a: 'Court judgement - day services paper'.

Supplementary

Councillor Ramage asked what action the Council would take and Councillor Parker advised this would be agreed when the report was considered later in the meeting.

Questions from Councillor Anderson

To the Executive Member for Roads Development and Maintenance

1. Does the relevant department (was neighbourhood services) have a time frame for giving staff the correct vehicle or adaption to a vehicle to empty bins and go about their sanitation duties in East Berwickshire? The staff are forced on busy days to do a one hour round trip to Duns to tip the transit van into the appropriate site. Having a transit with a cage on the back would enable the men to carry a heavier load and would save 31 working man hours in August alone. It would also save 806 miles or £362.70 in fuel costs in August. Can Council have a time frame for the desirable outcome of appropriate actions to be taken; specifically the correct vehicle or adaptation supplied to ground staff.

Response from Councillor Greenwell

The vehicle currently in use to service the street cleaning function in and around the Eyemouth area is a transit van without caged sides. This is a hired vehicle, it is not possible to hire vehicles with these adaptations currently, and as it is hired then we cannot modify it.

The service is currently trying to develop a more efficient approach to servicing of on street waste which may see modifications to existing routes and responsibilities within the I&E department. The conclusions of this exercise are not yet known. As such, it is not possible at this time to define a definitive timescale for the acquisition of a new vehicle. This vehicle along with a large number of other similar vehicles at or around the 3.5tonne Capacity are currently being procured as part of an ongoing fleet replacement programme which will see vehicles start to arrive over the summer of 2023 from June, given the lead-in times given for ordering and delivery. In the meantime, the service will continue to use spot-hire of vehicles to ensure cleansing operations can be conducted.

Officers will also continue to consider ways in which to make this operation more efficient, working with the front line staff to do so.

2. What is the total rental costs for Cooks van hire vehicles on an annual basis (not within Covid restricted years) to SBC?

Response from Councillor Greenwell

Year	Spend
2019/20	98,422
2020/21	185,429
2021/22	275,873
2022/23 (YTD)	136,812

Our fleet consists of circa 450 vehicles and 1000 items of plant. We use vehicle hires to support our fleet maintenance and replacement programme, and as one alternative to incurring the fixed cost of a permanent in-house vehicle as opposed to a temporary flexible

hire. In hiring through Cooks and other local suppliers we also continue to support the Scottish Borders Economy.

We have an accelerated fleet replacement programme underway in 22-23 and as part of this programme we intend to significantly reduce our use of third party hires in future.

To the Executive Member for Community Engagement

3. With the coming of the new Scheme of Establishment for Community Councils, there will be a specific requirement for Community Councils to have web site information; specifically the need to publish the minute of meetings, agenda and annual accounts. Community Councils play a valuable role in our communities and in particular will be vital in delivering the Place Plans. However Community Councils do not always have the expertise needed to run web sites. As these are specific requirements being asked by SBC before and after the review of the Scheme of Establishment, can SBC provide a simple page for each Community Council to publish their minute and other needed documentation to ensure they have the tools to meet the requirements for Community Councils?

Response from Councillor Cochrane

The review of the Scheme of Establishment for Community Councils is currently underway, with any proposals for change due be submitted to Council and then go out for public consultation. There is no current requirement in the Scheme for Community Councils to have website information available and while public notice needs to be given of agendas, reports and minutes of meetings, but publication in an online format is not compulsory.

Many Community Councils have their own websites, or have a page within a local community website or social media site. It is not possible for SBC to provide a page for each Community Council to access on its website as external users cannot publish information on its website. Neither is it possible for Scottish Borders Council to publish documents on behalf of Community Councils as, with 69 Community Councils holding a minimum of 3 meetings per annum each, it would be too resource intensive.

It is suggested that this could be a service that could be provided through the Scottish Borders Community Council Network, who may be willing to set up a specific website, with either links to where Community Councils publish their documents, or a facility which would allow Community Councils to publish documents directly to such a site.

Supplementary

Councillor Anderson advised that SBCCN was already tasked with a number of duties and asked if a support package could be included as part of the Review. Councillor Cochrane undertook to discuss this with officers.

4. Berwickshire Area Partnership members are keen to delegate full decision making powers on the Community Grant Fund to its Assessment Panel for a trial period. Can the Executive Member advise on how and when this can be achieved?

Response from Councillor Cochrane

The remit of the Berwickshire Area Partnership includes decision making on the Neighbourhood Support Fund. The Assessment Panel is not a legally constituted body and this creates significant difficulties in achieving the proper governance which would be necessary. At the heart of this issue is a spend of public money and therefore it is vital that appropriate safeguards are in place around that spend.

Officers are working to see what can be done to delegate decision making authority directly to a group who are not mainly SBC Elected Members but that work is not yet complete as it is complex and we need to ensure that the Council is "following the public pound" and that no personal liability rests with individual members of such a group. It is hoped to have a report on this by the end of the year.

Supplementary

Councillor Anderson asked if officers could meet to discuss delegation and report back to Area Partnership Chairmen. Councillor Cochrane advised that this would be undertaken as part of the Review.

To the Executive Member for Estate Management and Planning

5. What was the spend on the designs for the new Eyemouth primary school from 2015 to 2019?

Response from Councillor Mountford

Summary of fees from September 2019 to February 2020 equating to a total sum of £504,347.65. These fees form part of the overall cost of construction and are inclusive of architectural and engineering design services, project and cost management services and project related surveys.

Fees are in line with those expected on a construction project of this size and complexity and officers regularly monitor fees to ensure that they are delivering best value for the Council.

Conceptual proposals for the project will be presented to elected members later this financial year.

6. Can the Executive Member advise when a report on the future operation of public toilets will be considered by Scottish Borders Council so that we have a final policy in place following the closures due to Covid?

Response from Councillor Mountford

The policy and financial implications with the future operation of public toilet provision across the Borders will be considered, along with other resource priorities, as part of the budget process in 2023/24 and as such, Council can expect to receive a report on this issue by February 2023 at the latest.



**REVIEW GROUP UPDATE IN CONNECTION WITH INDEPENDENT INQUIRY
ACTION PLAN**

Report by Acting Chief Executive

SCOTTISH BORDERS COUNCIL

27 October 2022

1 PURPOSE AND SUMMARY

- 1.1 This report provides the second formal update from the Inquiry Review Group which was established to progress the work identified following the independent investigation into the Council's handling of concerns raised about a former Scottish Borders Council employee.**
- 1.2 On 25 February 2022, Council accepted the recommendations contained within the Inquiry Report produced by Andrew Webster QC and tasked the Chief Executive with preparing an action plan to address the matters contained within those recommendations.
- 1.3 On 10 March 2022 Council approved the Action Plan, and the establishment of a Review Group to steer the progress of work required. It was agreed that reports regarding progress of the Action Plan would be brought to Council for consideration and, where appropriate, to seek Council approval of any actions considered by the Review Group to be complete.
- 1.4 On 23 June 2022, Council approved the first tranche of completed actions from the overarching Action Plan. Good progress has been made on a second tranche of actions from the Action Plan contained in appendix 1 which are now complete as highlighted in this paper. A further update report will be brought to Council in November (relating to outcome actions 4 and 10) seeking sign off of these remaining outstanding actions and any other issues.

2 RECOMMENDATIONS

2.1 It is recommended that Council agrees:-

- (a) to record the progress of the Review Group as indicated herein;**
- (b) to approve the following actions from the Action Plan as being complete:**
 - Action 1 (b): Create a clear reporting mechanism which demonstrates progress against all actions and changes agreed by the Review Group, and achieve sign off by Council;**
 - Action 3(b): Consider the Terms of Reference for CSOG in light of the Inquiry report and its recommendations;**
 - Action 6(e) and (f): Following on from actions 6 (a-d) have the Councils Disciplinary Procedure moderated by the Improvement Service. Create an implementation plan for the new Procedures, to include, training, briefing sessions and communication strategy;**
 - Action 9(a) and (b): Update the Disciplinary Procedures and Guidelines to expressly articulate that conduct involving children can be determined as misconduct or gross misconduct. Procedures will be moderated against best practice. Update and disseminate information from (a) into the Council's Managing Disciplinary Cases training course;**
 - Actions 12(a) and (b): Creation of a protocol that establishes all HR disciplinary related information must be held in the HR Case Management System. Implement and train managers regarding this. Create a process for ensuring that the rationale for Disciplinary investigation decisions is appropriately recorded in the HR Case Management system. Implement and train managers regarding this;**
 - Action 12(e): Ensure there is a clear process where any referrals concerning a staff member to the CPU is by default copied to the HR Case Management System (failsafe measure).**

3 BACKGROUND

- 3.1 On 25 February 2022, Council approved the recommendations contained within the Inquiry Report produced by Andrew Webster QC which considered the handling of concerns raised about an individual who was convicted of assaulting children at a school in the Borders, whilst in the employment of the Council.
- 3.2 On 10 March 2022, Council approved the Chief Executive's Action Plan of how these recommendations would be implemented and approved the establishment of a Review Group to oversee the progress of work. It was agreed that updates regarding progress would be provided verbally at each meeting of Council, with a written update provided quarterly. In addition, any tasks which the Review Group consider to be complete will be brought to Council, in writing, for consideration and confirmation.
- 3.3 On 23 June 2022, Council approved the first tranche of completed actions from the overarching Action Plan.

4 MEETINGS OF THE REVIEW GROUP

- 4.1 The Review Group is chaired by the Acting Chief Executive and includes the Director of People, Performance and Change, the Director of Education and Lifelong Learning, and the Director for Social Work and Practice, who also undertakes the statutory role of the Chief Social Work Officer. The previously titled "Education" Portfolio Member was invited to attend all meetings. Invites have now been extended to Councillor Leigh Douglas in her role as Portfolio Holder for Education & Lifelong Learning.
- 4.2 The first Review Group meeting was held on 23 March 2022 and the Terms of Reference attached at Appendix 2 of this Report were agreed. The group has continued to meet fortnightly since that date.

5 SUMMARY OF WORK TO DATE

- 5.1 Work has continued in respect of all actions, as listed in the Action Plan.
- 5.2 In particular work is ongoing in respect of the following elements:
 - 5.2.1 Outcome 2b: Undertake self-assessment to identify & plan improvement for all Specialist Provisions across the Scottish Borders and work with Education Scotland to ensure robust inspection and learning to rebuild confidence across communities.

All provisions have undertaken self-evaluation using quality indicators in HGIOS 4 and produced standards and quality reports which highlight key strengths and identify areas for improvement. An improvement plan to address these areas has been produced by each setting.

The Performance and Quality Improvement Team carry out school reviews to evaluate quality of provision and identify a support plan where

appropriate. Peebles High and Langlee Primary are included in the current group of schools in the review cycle with the specialist provisions being included in the visits.

Education Scotland use the same HGIOS standards to undertake inspections which report on quality and improvement in Scottish Education. These inspections are undertaken on a cycle with specialist provisions in Berwickshire and Hawick High Schools being part of whole school inspections last session.

5.2.2 Outcome 4: Review and improvement of child protection training. All training material has been reviewed and confirmed to cover the areas of best practice noted in the recommendation. Reassuringly the review of the material confirmed that the content included all required points. A further update of the content will be undertaken to ensure it fully reflects the national child protection guidelines when these are implemented

5.2.4 Outcome 12: Ensure there is a clear process where any referrals concerning a staff member to the CPU is by default copied to the HR Case Management System (failsafe measure).

Work has progressed in relation to this action and officers are finalising the guidance and access rights to a shared site for the effective communication between Scottish Borders Council Public Protection services and Scottish Borders Council HR services. It is now intended that the guidance and site will be used for Child Protection and Adult Support and Protection concerns, not just Child Protection concerns as identified in the Action Plan.

5.3 The Review Group has identified no issues regarding budget in respect of this ongoing work. The Review Group has identified that some elements of ongoing work may extend beyond the indicative timeframes set out in the Action Plan. Where this is the case, details of those changes to timeframes have been set out above.

6 COMPLETED ACTIONS

6.1 The Review Group considers that work is complete in respect of the following actions from the Action Plan:

- **Action 1(b)**: Create a clear reporting mechanism which demonstrates progress against all actions and changes agreed by the Review Group, and achieve sign off by Council. From the Action Plan, the Review Group have prepared an action tracker within SharePoint which each member can access. This chart allows oversight of ongoing work and indicative deadlines.
- **Action 3(b)**: Consider the Terms of Reference for Critical Services Oversight Group (CSOG) in light of the Inquiry report and its recommendations. The Group have given consideration to the role and

purpose of CSOG in connection to public protection and the outcomes of the Action Plan. It is clear that CSOG's remit and role meet the needs of Local Authorities in this area.

- **Action 6(e):** Have the Council's Disciplinary Procedure moderated by the Improvement Service. Action 6 (e) which required the Policy and Procedure would be moderated by the Improvement Service of the actions taken in respect of Outcomes 6 (a), (b), (c) and (d). The Improvement Service and ACAS have indicated that they do not provide this service. Accordingly, as an alternative approach, the Policy and Procedures have been benchmarked against equivalent Policies in NHS, Local Government and Third Sector. The review group is satisfied this alternative approach is robust and the Council's Policy and Procedures had been appropriately benchmarked.
- **Action 6 (f):** Create an implementation plan for the new Disciplinary Procedures, to include, training, briefing sessions and communication strategy.
- **Action 9 (a):** Update the Disciplinary Procedures and Guidelines to expressly articulate that conduct involving children can be determined as misconduct or gross misconduct. Procedures will be moderated against best practice.
- **Action 9 (b):** Update and disseminate information from (a) above into the Council's Managing Disciplinary Cases training course.
- **Actions 12 (a):** Creation of a protocol that establishes all HR disciplinary related information must be held in the HR Case Management System. Implement and train managers regarding this. A digital Decision Rational Document has been created that Line Managers must complete and submit to HR Case Management to record and retain the decision making process. This requirement is highlighted in the Disciplinary Policy and in the online and face to face Conducting Disciplinary training courses.
- **Action 12 (b):** Create a process for ensuring that the rationale for Disciplinary investigation decisions is appropriately recorded in the HR Case Management system. Implement and train managers regarding this. The requirement to complete and submit the decision rationale document is highlighted in the Disciplinary Policy and in the online and face to face Conducting Disciplinary training courses. The HR Case Management system will be audited over the following three months to assess levels of compliance and quality assurance with the new documentation requirements.

- **Action 12 (e):** Ensure there is a clear process where any referrals concerning a staff member to the Child Protection Unit (CPU) is by default copied to the HR Case Management System (failsafe measure). A dedicated SharePoint site has been established for the transfer of information between the Public Protection Unit and HR services. This will be used where information pertains to an incident / concern regarding a member of staff in relation to both Child Protection and Adult Support & Protection. This removes the potential for information being missed, whilst also ensures that there is consistency in the information being recorded on the different systems.

6.2 The detail of these completed actions is contained at Appendix 1 to this Report.

6.3 The Review Group now seeks the approval of Council to mark the above actions on the Action Plan as being fully completed.

7 IMPLICATIONS

7.1 Financial

No additional budget or resource requirements have been identified from the work carried out to date.

7.2 Risk and Mitigations

The Council has both statutory duties and common law duties of care to pupils in its schools, and to its own staff. The best way to mitigate the risk of breaching these duties, is to implement the recommendations resulting from the inquiry, through the Review Group, so that the Council can determine how best to learn from any errors or omissions in the way the Council works.

7.3 Equalities

No adverse equality implications are anticipated as a result of this report.

7.4 Acting Sustainably

There are no economic, social or environmental effects resulting from this Report.

7.5 Carbon Management

There are no carbon emissions impacts resulting from this Report.

7.6 Rural Proofing

A rural proofing check is not required for this matter.

7.7 Changes to Scheme of Administration or Scheme of Delegation

No changes are required to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

8 CONSULTATION

- 8.1 The Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications are being consulted and any comments will be incorporated into the final report

Approved by

David Robertson

Acting Chief Executive

Author(s)

Name	Designation and Contact Number
Lesley Munro	Director, Education and Lifelong Learning 01835 829046
Clair Hepburn	Director People Performance and Change 01835 826677
David Robertson	Interim Chief Executive Tel: 01835 825216

Background Papers:

Previous Minute Reference: Scottish Borders Council, 25 February 2022, 23 June 2022

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Hannah MacLeod can also give information on other language translations as well as providing additional copies.

Contact us at Scottish Borders Council, Council HQ, Newtown St Boswells, Melrose, TD6 0SA.

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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Chief Executive/Hannah Macleod
Recommendation	Overarching Governance Actions
Outcome number and summary	1. Scottish Borders Council can demonstrate robustness and momentum in the delivery of all actions associated with the Inquiry.
Action	b) Create a clear reporting mechanism which demonstrates progress against all actions and changes agreed by the Review Group, and achieve sign off by Council
Deadline within Plan	June 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

From the Action Plan, the Review Group have prepared an action tracker within SharePoint which each member can access. This chart allows oversight of ongoing work and indicative deadlines.

Where deadlines will not be met, this will be flagged to Council and explained.

Where members believe an action to be complete, this will be brought to the Review Group for discussion, in the form of a 'completed action template'. The Review Group will then discuss whether the action taken meets the objective within the Plan. If the Review Group is satisfied on this, the completed template will be signed off by the Review Group and appended to a quarterly report to Council for final approval.

Once Council has approved an action as complete, the tracker chart will be updated to show progress.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

none

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

Not applicable

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

Not applicable

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

The charts will be monitored by the Group.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The use of the shared action tracker and the reporting template ensures the opportunity for the Group to compare the actions outlined in the plan with the work actually completed.

The mechanism of reporting to Council ensures the supervision of the work of the review Group.

Approval by Review Group:

Date:	24 August 2022
Comments/amendments:	
Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	27 October 2022
Comments/amendments:	
Signature of Chair:	

INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Officer	Lead	Chief Executive
Recommendation		Overarching Governance Actions
Outcome number and summary		3. Open and effective communication with local partners and key stakeholders ensures collective responsibility (e.g Police, Health).
Action		b) Consider the Terms of Reference for CSOG in light of the Inquiry report and its recommendations
Deadline within Plan		August 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

The Group have given consideration to the role and purpose of CSOG in connection to public protection and the outcomes of the Action Plan. It is clear that CSOG's remit and role meet the needs of Local Authorities in this area.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

None

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

Not applicable

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

The CSOG is a multi agency partnership meeting involving Health and Police.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

There will be an item on the agenda at each meeting of CSOG.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

Approval by Review Group:

Date:	August 2022
Comments/amendments:	None
Was the action completed within the Action plan timeframe?	Yes
Signature of Chair:	To be applied

Approval by Council:

Date:	27 October 2022
Comments/amendments:	
Signature of Chair:	

INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Clair Hepburn
Recommendation	3. The Council reviews and improves its Disciplinary Procedures and Guidelines on Conducting Investigations.
Outcome number and summary	6. The organisation has robust Disciplinary Procedures and Guidelines which are fit for purpose and applied proportionately and appropriately: <ul style="list-style-type: none"> • Disciplinary Procedures and Guidelines work alongside alternative controls, such as referrals to the Police • The Disciplinary Procedures and Guidelines act as a failsafe to ensure that all conduct involving children is referred to the Child Protection Unit (CPU).
Action	<p>a) <i>Undertake a review of all Disciplinary Procedures and guidance to consider the recommendations of this Inquiry.</i></p> <p>b) <i>Update and extend the Procedures and Guidelines to consider the requirement for referrals to other statutory bodies.</i></p> <p>c) <i>Amend the Procedures and Guidelines to include a specific direction to refer any disciplinary matters involving children to the CPU.</i></p> <p>d) <i>Amend the Procedures and Guidelines to include a specific direction to consider at the outset, throughout, and at the conclusion of any disciplinary proceedings, whether any action was directed towards children, and if so to refer to the CPU.</i></p> <p>e) Following on from a.) – d.) above have procedures moderated by the Improvement Service</p>
Deadline within Plan	June 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome

This relates to Recommendation 3 in the Inquiry Report, which recommends review and improvement of the Disciplinary Procedures and Guidelines on Conducting Investigations, with a particular requirement to:

- I. Refer conduct under consideration for disciplinary action (whether minor or otherwise) that relates to conduct involving children to the child protection unit by an identified officer.*
- II. Require formal consideration (a) in the course of and (b) at the end of at the end of any investigation of whether the subject of the disciplinary investigation has related to conduct involving children; and if so to require referral to the child protection unit by an identified officer.*

- a) A thorough review of the Disciplinary Procedure and Guidelines on Conducting Investigations has been carried out.

- b) The Disciplinary Procedure has expanded on the requirements to refer to statutory bodies such as SSSC, GTCS, Disclosure Scotland and the Care Inspectorate. (Paras 7, 18.11, 26, Appendix 6).
There is a specific section on reference to other regulatory organisations and/ or the Police (Para 15).
- c) The Disciplinary Procedure has been amended to make it a requirement to refer any allegation of misconduct involving a child to the child protection unit, with an explanation as to how to make a referral. This also now includes a requirement to refer to the adult protection unit if the conduct involves an adult at risk. (Para 4).
- d) In addition to the statement of principle in Para 4, there are specific requirements to consider and if appropriate refer when conduct is initially considered (Para 7), when instructing an investigation (Para 7.2, 12.1), when receiving the investigation report (Para 13.9), and when considering any appropriate further action (Para 20.2).
The rationale for making or not making a referral to the child or adult protection unit require to be recorded on the Investigation Brief sent by the commissioning manager to the investigating officer(s) (Appendix 4).
The Guidelines for Conducting Investigations also require the investigating officer(s) to check to see if any child or adult protection matters arise and if so ensure the appropriate referral is made. This arises both on initial instruction and should issues arise during the investigation (Para 3).
- e) While the Improvement Service and ACAS have stated they don't moderate/ review the policies of organisations, benchmarking has been undertaken against other organisations' policies to ensure best practice.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

Revised Disciplinary Procedures for Misconduct.
Revised Guidelines on Conducting Investigations.

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

Benchmarking has taken place against the policies of other organisations, including local authority, NHS and third sector.

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

N/A

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

Both documents will be reviewed at least every two years in accordance with the rolling HR policy review schedule (next review: March 2024), or sooner if circumstances require.

We will continue to benchmark against other organisations and best practice.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The revised policies provide clear steps that specified people require to take at various defined stages to ensure any appropriate referrals are identified and made.

Approval by Review Group:

Date:	
Comments/amendments:	
Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	
Comments/amendments:	
Signature of Chair:	

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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Clair Hepburn
Recommendation	3. The Council reviews and improves its Disciplinary Procedures and Guidelines on Conducting Investigations.
Outcome number and summary	6. The organisation has robust Disciplinary Procedures and Guidelines which are fit for purpose and applied proportionately and appropriately: <ul style="list-style-type: none"> • Disciplinary Procedures and Guidelines work alongside alternative controls, such as referrals to the Police • The Disciplinary Procedures and Guidelines act as a failsafe to ensure that all conduct involving children is referred to the Child Protection Unit (CPU).
Action	f) Create an implementation plan for the new Procedures, to include, training, briefing sessions and communication strategy.
Deadline within Plan	July/August 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

This relates to Recommendation 3 in the Inquiry Report, which recommends review and improvement of the Disciplinary Procedures and Guidelines on Conducting Investigations, with a particular requirement to:

- I. Refer conduct under consideration for disciplinary action (whether minor or otherwise) that relates to conduct involving children to the child protection unit by an identified officer.*
- II. Require formal consideration (a) in the course of and (b) at the end of at the end of any investigation of whether the subject of the disciplinary investigation has related to conduct involving children; and if so to require referral to the child protection unit by an identified officer.*

Training has been reviewed to ensure it aligns with the revised policies. Key changes are-

- Referral to Child Protection / Adult Protection Units Consideration must be given at all points in the disciplinary process.
- Introduction of a Decision Rationale Document: which will be completed by the Line Manager or Commissioning Manager and will detail the disciplinary process from the initial complaint stage through to its conclusion. The line manager / commissioning manager will, in this document, detail their rationale for decisions made and action taken at each stage in the process as well as detailing whether the allegations concern a child / protected adult and what referrals have been made to the relevant Child Protection / Adult Protection units and relevant Professional / Governing bodies.

In accordance with standard practice a briefing note will be published in September/October 2022 highlighting the changes to the revised documents.

SLT and Service Management Teams will all be separately briefed during October 2022.

Alongside this managers will be encouraged to attend, or re-attend, the Discipline & Grievance training course and complete, or re-complete, the online training on SBLearn. Before commissioning a Disciplinary Investigation it will be mandatory to have undertaken the Councils online training as a minimum and strongly recommended that face to face training is also completed.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

Implementation plan.

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

Any issues that arise in referring will be addressed as they arise.

Training completions and attendance will be monitored and any weaker areas specifically targeted.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The steps will make managers and employees aware of the referral requirements.

Approval by Review Group:

Date:	
Comments/amendments:	

Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	
Comments/amendments:	
Signature of Chair:	

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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Clair Hepburn
Recommendation	6. The Council reviews and improves its Disciplinary Procedures to provide guidance as to the seriousness of inappropriate conduct involving children when considering of what amounts to misconduct and gross misconduct.
Outcome number and summary	9. Ensure all Disciplinary matters are dealt with appropriately: <ul style="list-style-type: none"> • Suitable focus on the child as an individual, and taking due consideration of this when considering the severity of the allegations.
Action	a) Update the Disciplinary Procedures and Guidelines to expressly articulate that conduct involving children can be determined as misconduct or gross misconduct. Procedures will be moderated against best practice.
Deadline within Plan	April 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

This action relates to recommendation 6 of the Inquiry Report:

The Council reviews and improves its Disciplinary Procedures to provide guidance as to the seriousness of inappropriate conduct involving children when considering of what amounts to misconduct and gross misconduct.

The Disciplinary Procedure has been revised to highlight that inappropriate conduct towards a child may constitute gross misconduct or misconduct.

It is specifically highlighted that consideration should be given to whether inappropriate conduct involving a child constitutes gross misconduct.

Within definitions of gross misconduct a number of specific examples are given relating to conduct towards a child.

This has also been extended to cover inappropriate conduct towards an adult at risk.

(Appendix 8)

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

Revised Disciplinary Procedures for Misconduct.

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

The revised policy has been benchmarked against those of other organisations (local authority, NHS and third sector).

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

The policy will be reviewed at least every two years in accordance with the rolling HR policy review schedule (next review: March 2024), or sooner if circumstances require.

We will continue to benchmark against other organisations and best practice.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The revised procedures are clear that inappropriate conduct involving a child can be either misconduct or gross misconduct and gives several examples of what would constitute gross misconduct.

This provides clarity to officers involved in such cases.

Approval by Review Group:

Date:	
Comments/amendments:	
Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	
Comments/amendments:	

Signature of Chair:	
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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Clair Hepburn
Recommendation	6. The Council reviews and improves its Disciplinary Procedures to provide guidance as to the seriousness of inappropriate conduct involving children when considering of what amounts to misconduct and gross misconduct.
Outcome number and summary	9. Ensure all Disciplinary matters are dealt with appropriately: <ul style="list-style-type: none"> • Suitable focus on the child as an individual, and taking due consideration of this when considering the severity of the allegations.
Action	b) Update and disseminate information from a) above into the Council's Managing Disciplinary Cases training course.
Deadline within Plan	May 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

This action relates to recommendation 6 of the Inquiry Report:

The Council reviews and improves its Disciplinary Procedures to provide guidance as to the seriousness of inappropriate conduct involving children when considering of what amounts to misconduct and gross misconduct.

Training has been reviewed to ensure it aligns with the revised policies.

Key changes are-

- Referral to Child Protection / Adult Protection Units Consideration must be given at all points in the disciplinary process.
- Introduction of an Investigation Brief: The line manager/ commissioning manager when appointing the Investigation Officer(s) must confirm the appointment in writing, stating that the investigation is to be conducted under the Disciplinary Procedures for Misconduct and including a completed Investigation Brief and a copy of the Disciplinary procedure.
- Introduction of a Decision Rationale Document: which will be completed by the Line Manager or Commissioning Manager and will detail the disciplinary process from the initial complaint stage through to its conclusion. The line manager / commissioning manager will, in this document, detail their rationale for decisions made and action taken at each stage in the process as well as detailing whether the allegations concern a child / protected adult and what referrals have been made to the relevant Child Protection / Adult Protection units and relevant Professional / Governing bodies.

In accordance with standard practice a briefing note will be published highlighting the changes to the revised documents.

Service Management Teams will all be separately briefed.

Alongside this managers will be encouraged to attend, or re-attend, the Discipline & Grievance training course and complete, or re-complete, the online training on SBLearn.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

Revised Disciplinary Procedures for Misconduct

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

The revised policy has been benchmarked against those of other organisations (local authority, NHS and third sector).

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

Training completions and attendance will be monitored and any weaker areas specifically targeted.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The revisions to training will make clear the requirement to have the child at the centre when the seriousness of allegations is being considered.

Approval by Review Group:

Date:	
Comments/amendments:	
Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	
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Comments/amendments:	
Signature of Chair:	

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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Clair Hepburn
Recommendation	9. That the Council reviews and improves the process of management decision making.
Outcome number and summary	12. The Council can appropriately recall and evidence documents and rationale for its decision-making in relation to HR matters and matters involving children, in order to: <ul style="list-style-type: none"> • assure an appropriate audit trail • provide opportunities for reflection • provide confidence in those decisions • assist with the reasoning process. • protect Council staff and service users • increase effectiveness of service delivery
Action	a) Creation of a protocol that establishes all HR disciplinary related information must be held in the HR Case Management System. Implement and train managers regarding this.
Deadline within Plan	July 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

This action relates to Recommendation 9 in the Inquiry Report: That the Council reviews and improves the process of management decision making.

In particular, it should:

*(i) review or establish protocols as regards the recording of internal meetings,
and*

(ii) review or establish protocols as regard the recording of reasons for advice tendered or decisions taken.

In addition to the provisions of the revised Disciplinary Procedures, a Decision Rationale document has been produced which requires to be completed by the relevant manager at various stages and sent to the HR Case Management Team:

- Initial consideration
- When considering if formal investigation is necessary.
- When considering if a disciplinary hearing should be convened.
- When considering the appropriate outcome of a disciplinary hearing.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

Decision Rationale

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

The revised policy has been benchmarked against those of other organisations (local authority, NHS and third sector).

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

Any problematic cases will be picked up as they arise.

The policy will be reviewed at least every two years in accordance with the rolling HR policy review schedule (next review: March 2024), or sooner if circumstances require.

We will continue to benchmark against other organisations and best practice.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The Decision Rationale, held within the Case Management folder, requires managers to explain and justify the decision they make at each stage and will encourage critical thinking.

Approval by Review Group:

Date:	
Comments/amendments:	
Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	
Comments/amendments:	
Signature of Chair:	

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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Clair Hepburn
Recommendation	9. That the Council reviews and improves the process of management decision making.
Outcome number and summary	12. The Council can appropriately recall and evidence documents and rationale for its decision-making in relation to HR matters and matters involving children, in order to: <ul style="list-style-type: none"> • assure an appropriate audit trail • provide opportunities for reflection • provide confidence in those decisions • assist with the reasoning process. • protect Council staff and service users • increase effectiveness of service delivery
Action	b) Create a process for ensuring that the rationale for Disciplinary investigation decisions is appropriately recorded in the HR Case Management system. Implement and train managers regarding this.
Deadline within Plan	August 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

This action relates to Recommendation 9 in the Inquiry Report: That the Council reviews and improves the process of management decision making.

In particular, it should:

*(i) review or establish protocols as regards the recording of internal meetings,
and*

(ii) review or establish protocols as regard the recording of reasons for advice tendered or decisions taken.

In addition to the provisions of the revised Disciplinary Procedures, a Decision Rationale document has been produced which requires to be completed by the relevant manager at various stages and sent to the HR Case Management Team:

- Initial consideration
- When considering if formal investigation is necessary.
- When considering if a disciplinary hearing should be convened.

When considering the appropriate outcome of a disciplinary hearing.

The requirement to submit the rationale document to HR Case Management will be included in the briefing to SLT and Service Teams.

The Councils e-learning and face to face training will reflect the requirement to complete and submit the decision rationale document.

The HR Case Management system will be audited over the following three months to assess levels of compliance and quality assurance with the new documentation requirements.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

Decision Rationale

Revised Disciplinary Procedures for Misconduct

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

The revised policy has been benchmarked against those of other organisations (local authority, NHS and third sector).

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

Any problematic cases will be picked up as they arise.

The policy will be reviewed at least every two years in accordance with the rolling HR policy review schedule (next review: March 2024), or sooner if circumstances require.

We will continue to benchmark against other organisations and best practice.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

The Decision Rationale, held within the Case Management folder, requires managers to explain and justify the decision they make at each stage and will encourage critical thinking.

Approval by Review Group:

Date:

Comments/amendments:

Was the action completed within the Action plan timeframe?	
Signature of Chair:	

Approval by Council:

Date:	
Comments/amendments:	
Signature of Chair:	

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INQUIRY ACTION PLAN
NOTIFICATION OF COMPLETED ACTION

Strategic Lead Officer	Stuart Easingwood
Recommendation	9. That the Council reviews and improves the process of management decision-making.
Outcome number and summary	12. The Council can appropriately recall and evidence documents and rationale for its decision-making in relation to HR matters and matters involving children, in order to: <ul style="list-style-type: none"> • assure an appropriate audit trail • provide opportunities for reflection • provide confidence in those decisions • assist with the reasoning process. • protect Council staff and service users • increase effectiveness of service delivery
Action	e) Ensure there is a clear process where any referrals concerning a staff member to the CPU is by default copied to the HR Case Management System (failsafe measure)
Deadline within Plan	May 2022

1. MEASURES TAKEN

Detail here the specific actions taken to meet the identified outcome.

A dedicated SharePoint site has been established for the transfer of information between the Public Protection Unit and HR services. This will be used where information pertains to an incident / concern regarding a member of staff in relation to both Child Protection and Adult Support & Protection. This removes the potential for information being missed, whilst also ensures that there is consistency in the information being recorded on the different systems. This measure also addresses Action 14b.

1B. ASSOCIATED DOCUMENTS

Note here any documents attached as being relevant to this action

There are no associated documents relevant for this purpose.

2. BENCHMARKING

Explain what steps have been taken to measure the actions taken against best practice.

There is no avenue to pursue with regard to benchmarking, as this step is not common practice in other Local Authority areas.

3. EXTERNAL AGENCY INVOLVEMENT

Where the Action Plan identifies a third party dependency, explain here the involvement and approval of any such party.

There is no third party dependency as this provision relates to an improvement on the communication of information internally.

4. ONGOING MONITORING ARRANGEMENTS

Where relevant, what steps have been put in place to ensure ongoing review of this action?

Only designated officers in both HR and the Public Protection Unit will have access to the site. These officers will continue to use the site as a means of transferring information in both directions.

5. HOW DOES THE ACTION MEET THE OUTCOME?

Explain briefly how the steps taken will achieve the desired objective?

By having a common repository for the sharing of information between the services / systems which has limited access to appropriately approved officers, will ensure there is a clear process where any referrals concerning a staff member to the PPU is by default copied to the HR Case Management System (failsafe measure).

Approval by Review Group:

Date:	24 August 2022
Comments/amendments:	This measure also addresses Action 14b: 14. All additional learning and opportunities from the Inquiry Report are identified and implemented. <i>b) Consideration should be made as to whether any improvements to policy, processes or procedures should be mirrored to include vulnerable adults. Ongoing</i>
Was the action completed within the Action plan timeframe?	Yes
Signature of Chair:	Agreed – to be applied

Approval by Council:

Date:	27 October 2022
Comments/amendments:	
Signature of Chair:	

ANNUAL REPORT OF THE CHIEF SOCIAL WORK OFFICER 2021/22

Report by Director Social Work & Practice

SCOTTISH BORDERS COUNCIL

27 October 2022

1 PURPOSE AND SUMMARY

- 1.1 This is the Chief Social Work Officer (CSWO) annual report on the work undertaken on behalf of the Council by the CSWO in this statutory role for 2021/22.**
- 1.2 It provides the Council with an account of the decisions taken by the CSWO in the statutory areas of:
- Fostering and Adoption,
 - Child Protection,
 - Secure Orders,
 - Adult Protection,
 - Adults with Incapacity,
 - Mental Health
 - Justice.
- 1.3 The report also gives an overview of regulation and inspection, workforce issues and social policy themes over the year April 2021 to March 2022, and highlights some of the key challenges for that year.
- 1.4 As has been the case for the last few years, the format of the report is a shortened version from that which was produced prior to the pandemic. This ongoing arrangement has been kept in place to recognise the workload implications caused by the Covid-19 pandemic and pressures that have continued across the Social Work & Social Care landscape as we emerge from this.

2 RECOMMENDATIONS

- 2.1 I recommend that the Council approves the report of the Chief Social Work Officer attached as *Appendix A*.**

3 BACKGROUND

- 3.1 In compliance with their statutory functions under the Social Work (Scotland) Act 1968, all Local Authorities must have a CSWO. This requirement was reinforced by the recommendations contained in the Changing Lives Report published by the 21st Century Social Work Review Group to strengthen the governance and leadership roles of the CSWO.
- 3.2 A specific role of the CSWO in Scottish Borders, is to lead professional Social Work across the Council and to ensure that the Council's statutory Social Work legislative requirements are met. The CSWO role reports directly to the Chief Executive of Scottish Borders Council.

4 OVERVIEW AND EVALUATION

- 4.1 In 2017 the governance arrangements for Social Work in Scottish Borders Council were revised with the CSWO reporting directly to the Chief Executive. In 2018 the CSWO role absorbed the operational responsibility for Public Protection services on behalf of the Council, creating the role of Chief Social Work & Public Protection Officer. For the purposes of this report, the role and function will be referred to as Chief Social Work Officer (CSWO).
- 4.2 In regard to the ongoing integration agenda of the Health & Social Care Partnership (HSCP), as CSWO, I attend the Integration Joint Board (IJB) as a non-voting member to provide professional advice and guidance in matters pertaining to Social Work.
- 4.3 There are reflections of key Social Work performance data contained in the report, however I would draw members attention to the recent presentation on the development of the Pathfinder project which is fundamentally changing the way in which performance information is made available across the Social Work landscape. As this project progresses, performance information will be much more accessible. Members will see a marked difference in the amount and quality of performance data going forward.
- 4.4 A number of the challenges faced by Social Work in 2021/22 are identified in the report including ongoing financial constraints. As a service we continue to strive to identify and implement new ways of working and engaging with those who use our services – and to do so in a cost effective way, whilst always aiming to deliver improved outcomes for our service users.
- 4.5 We continue to experience challenges in the recruitment and retention of staff. We have progressed with our planning regarding the Social Work trainee program to create opportunities for some of our existing 'unqualified' staff to progress onto professional Social Work qualification. This is a programme that we are continuing to focus on and expand where possible.
- 4.6 Our Public Protection services continue to do everything possible to keep people in Scottish Borders as safe as possible. We have recently had an inspection of our Adult Support & Protection processes, the publication of the findings is due on 18 October 2022.
- 4.7 Despite the challenges, the Council continues to be well placed to deliver high quality services and improve outcomes for all of the people who

access Social Work services.

5 IMPLICATIONS

5.1 Financial

There are no costs attached to any of the recommendations contained in this report but managing service change and efficiencies in the light of increasing demographic demand whilst maintaining service quality remains a significant challenge.

5.2 Risk and Mitigations

There are no specific concerns that need to be addressed in respect of the recommendations contained in this report.

5.3 Equalities

Social Justice and Equality are key values in Social Work and there are no adverse equality implications arising from the work contained in this report.

5.4 Acting Sustainably

There are no anticipated economic, social or environmental effects.

5.5 Carbon Management

There is no impact on the Council's carbon emissions.

5.6 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to either the Scheme of Administration or the Scheme of Delegation.

6 CONSULTATION

6.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

Approved by

Stuart C. Easingwood, Director Social Work & Practice

Signature



Author(s)

Name	Designation and Contact Number
Stuart C. Easingwood	Director Social Work & Practice 01835 824000

Background Papers: None

Previous Minute Reference: None

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Nicola Tait can also give information on other language translations as well as providing additional copies.

Contact us at Social Work, Scottish Borders Council, Newtown St Boswells, Melrose, TD6 0SA, 01835 825080.

SCOTTISH BORDERS COUNCIL'S



CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021-2022





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CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021/22

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CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021/22

INTRODUCTION

I have pleasure in presenting the Scottish Borders Chief Social Work Officers Annual report for 2021/22. This report is an opportunity to reflect on the past year, highlight the progress made against service priorities, to celebrate what has gone well, and to acknowledge the significant impact that the pandemic has continued to have on people, their families, staff, volunteers, and communities.

It has continued to be a significantly challenging landscape for everyone in society, with those who were already disadvantaged continuing to be disproportionately impacted by the COVID-19 pandemic. From an organisational perspective, the Pandemic has caused significant pressure on the Local Authority, colleagues in NHS (National Health Service), third sector and other partners. We recognise that significant challenges remain, and we continue to work together to mitigate the impact on the people of Scottish Borders.

Please note that the format of this report has continued in the amended outline for the third year in a row by Scottish Government, this is to enable Chief Social Work Officers to present reports for local governance structures, whilst having due regard to current pressures being experienced across the sector because of COVID-19.

I would like to take this opportunity to acknowledge the exceptional work and dedication of all Social Work and Social Care staff across Scottish Borders for their relentless work over the past year, in what continues to be extraordinarily pressurised situation. Last year I stated that this has been "a year like no other," and whilst I cannot continue to make this statement, it is important that I recognise that all staff and carers have continued to go beyond what was expected of them to deliver critical services to the people of Scottish Borders. I remain incredibly proud of the efforts of all staff and hope that my words will in some way convey my gratitude to them, also recognising the massive contribution from carers and communities across the area who have continued to keep the needs of others at the forefront throughout these challenging times.



CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021/22

GOVERNANCE AND ACCOUNTABILITY

OVERVIEW OF GOVERNANCE ARRANGEMENTS

Local authorities are required, under Section 3 (1) of the Social Work (Scotland) Act 1968 as amended, to appoint a Chief Social Work Officer (CSWO). The role of CSWO in Scottish Borders is fulfilled by the Chief Social Work & Public Protection Officer. The role of the CSWO is to ensure professional oversight of social work practice and service delivery; this includes professional governance, leadership, and accountability for the delivery of social work and social care services, whether provided by the local authority or commissioned through the third or independent sector.

Scottish Borders Social Work services have clear governance arrangements in place. The CSWO is a member of the Council's Strategic Leadership Team and as such has direct access to Elected Members, the Chief Executive, and senior managers of other Council services. The governance of Social Work Services is undertaken through two separate but interconnected structures. Children and Families Social Work, Justice and Public Protection services are directly managed through internal Council structures and all other delegated services are managed through the Integration Joint Board (IJB). These arrangements are embedded and provide assurance that the social work function is being undertaken to the highest possible standards. The CSWO is a non-voting member of the IJB and offers professional advice and guidance to the IJB on matters relating to Social Work service delivery. The CSWO is also a member of IJB Leadership Team and other senior leadership forums between NHS Borders and Scottish Borders Council, further strengthening the integration of services. In all Social Work services there are a range of multi-agency operational and strategic groups that add significant value to the work of Social Work. There continues to be a strong emphasis on partnership working in these forums and given the co-terminus nature of the Local Authority with the local NHS Board, this continues to be a crucial element of our ongoing improvement. The CSWO has continued to monitor, review, and advise the Council on Social Work matters, whilst providing leadership for all staff in Social Work and Social Care in providing high quality and safe services for the Borders.



ROLE OF CSWO

The CSWO assures the quality of social workers and of social work practice by ensuring that we have robust auditing processes, quality and performance indicators and quality assurance/improvement measures in place. The CSWO has responsibilities in respect of statutory decision making, specifically the public protection arrangements. The CSWO also has oversight of practice standards relating to services delivered by registered social workers. This also includes statutory decision making in relation to public protection and/or the restriction of individual liberty and requires consideration of individual circumstances regarding rights, risks, needs and capacity. These considerations are often complex in nature and need to consider a range of issues, including the risks to the wider community. The statutory decision making includes the placement of children in secure accommodation, transfers of children and young people in cases of urgent necessity who are subject to Compulsory Supervision Orders, adoption, fostering, community payback orders, statutory interventions linked to the Mental Health Officer role, adults with incapacity measures, and the protection of children and adults at risk.

CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021/22

SERVICE QUALITY AND PERFORMANCE

Across the Social Work and Social Care landscape there are significant challenges in maintaining and improving service quality and performance. This is due to some of the challenges being faced with recruitment and retention of staff and the increasing demand for services. This is not an issue that is unique to Scottish Borders as these are challenges being faced across Scotland and the wider United Kingdom.

An example of the increased demand can be seen in the following diagram:

Adult SW referrals:



The number of new referrals has increased from 1,036 in 2016 to 4,782 in 2021

However, despite these challenges we are working hard to improve services in Scottish Borders and develop innovative ways to recruit and retain staff. We are also embarking on a Pathfinder project to make performance data readily available to all staff across the services, carry out process re-engineering to make recording more efficient and planning to give front line practitioners digital equipment that will enable them to be more agile in their day-to-day practice.

ADULT SOCIAL WORK

In Adult Social Work, locality performance spreadsheets are updated weekly which highlights the volume of referrals received per week within each locality and those referrals that have been allocated.

There is also a monthly Social Care and Health workload activity report which gives officers a detailed breakdown of all social work activity spanning the previous four-week period. This allows us to maintain an overview of performance and trends to manage demand as effectively as possible. We are also looking to reintroduce performance clinics to provide narrative behind data to aid learning and system development planning and cascade to relevant staff to underpin/improve performance.

Early in 2022 the Scottish government released funding to local authorities to provide additional social work capacity. The Scottish Government recognised that the expansion of the social work workforce is required to support the increasing adult social care workload and workforce pressures across health and social care. One of the posts created by Scottish Borders Council from the funding is a Policy and Practice Development Officer. The purpose of the role is to lead on the development and review of Scottish Borders Council's social work policies and procedures in line with current legislation and national policy requirements. There is a drive to promote best practice in all aspects of social work policy and procedure.

In addition to this, the following additional posts have been recruited to on the back of this additional funding:

- Central Team – 1 x Assistant Team Leader (Council Officer)
- Central Team 2 x Social Workers (Council Officers)
- Central Team 1 x Paraprofessional
- Hawick Team 1 x Occupational Therapist (Council Officer)
- Community Care Review Team (Early Indicators of Concern/ Prevention) 1 x Social Worker (Council Officer)
- Mental Health Officer Team 1 x Mental Health Officer
- Community Mental Health Team 1 x Social Worker
- There is also a small additional capacity for increased Business Support staff to support the Locality Teams with some tasks and to free up-front line operational managers

In relation to transitions, Scottish Borders Council are undertaking a programme of work with Achieving Real Change (ARC) Scotland on developing Principles into Practice for young people. A working group is currently looking at developing an improved pathway for those transitioning from school and children's services into further education, employment, and adult services. This is being co-produced across several services and organisations including education, children's social work, adult social work, adult learning disability, NHS Borders, ARC Scotland and Branching Out Youth project - Borders Additional Needs Group (BANG). The work aims to engage with young people with lived experience and their families directly, with the aim of developing stronger partnership working, improved communication and more accessible pathways, leading to better outcomes for young people and their families.

Our Care and Repair service has seen improvement on waiting lists and grant applications, however there remain challenges with the availability of contractors to carry out some specified work.

Current day support for older people has two substantive elements, the first is The Local Area Coordination service (LAC), and the second is the Royal Voluntary Service (RVS) Social Centres. The former provides community-based support for suitable activities and opportunities, the latter is a buildings-based centre providing transport, activities, and lunch. Any personal care requirements are identified in the care plan and are arranged separate to these opportunities. The Integrated Joint Board (IJB) are carrying out a review of daytime support for carers and crucially involves key partners and service user representation.

Social Centres are still on a post COVID journey, and a recent contract review summarised the challenges. Social Centres were constrained by social distancing and other COVID restrictions, for example, they could only transport one person per vehicle and community transport partners did not resume activity as early as RVS. Some centre providers were slower than others to risk assess and agree terms that would allow us to resume activity. Understandably there was reluctance by some clients to return to centres and COVID was still impacting in terms of staff and client illness. Lockdown with the reduced physical activity and social isolation has affected many to the point where they could not participate fully at the centres.

Between September - December 2021, there were 100 clients, attending 131 days with 134 spaces available. Due to social distancing requirements, this had reduced this to nearer 160 spaces in total. This year shows a steady increase month on month from 97 clients attending 127 days to 125 Clients attending 164 days. There is reported evidence that the cost-of-living crisis is having some impact, pre COVID clients would attend on average for 1.44 days a week, and this has reduced to 1.32 days a week. This is something we will continue to monitor and put appropriate measures in place to mitigate this impact where appropriate.

In Scottish Borders people have a choice regarding payment of funds for option 1 under Self Directed Support, namely 'all pay' cards. All other local authorities have chosen to opt out of personal banking arrangements, in preference of all pay cards. However, following close discussion with the Self-Directed Support (SDS) forum and working group, the agreement, given that this blanket approach did not consider the individual circumstances of people and their Carers, is people within Scottish Borders should retain the options of having monies come into their own bank accounts as well as the option to have an 'all pay' card.

There is also ongoing third sector support in Scottish Borders with various initiatives e.g., café recharge and community larder.

Ability to deliver statutory functions and Key risks to delivery

We are managing to deliver all statutory functions, however capacity and pressure within the social work teams is challenging. We also recognise that there are significant challenges in delivering services within the timescales to meet community need and this is something that we are working closely with partners across the health and social care partnership to address. The difficulties in accessing the right support at the right time for people in our communities is exacerbated by recruitment and retention issues for all social care providers, both internal and external to Scottish Borders Council.

Key figures relating to performance:

Average figures:

327 social work cases allocated per month (12month average to March 2022)	1,023 patients have gone through Home First (Year to March 2022)	On average 18,430 hours of planned Homecare per month, for 748 people	Clients received, on average, 25 hours of planned care per month.	1,276 active Community Alarms in individual's homes in the Scottish Borders
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Waiting lists across the 5 locality Adult teams:

Clients on Waiting List

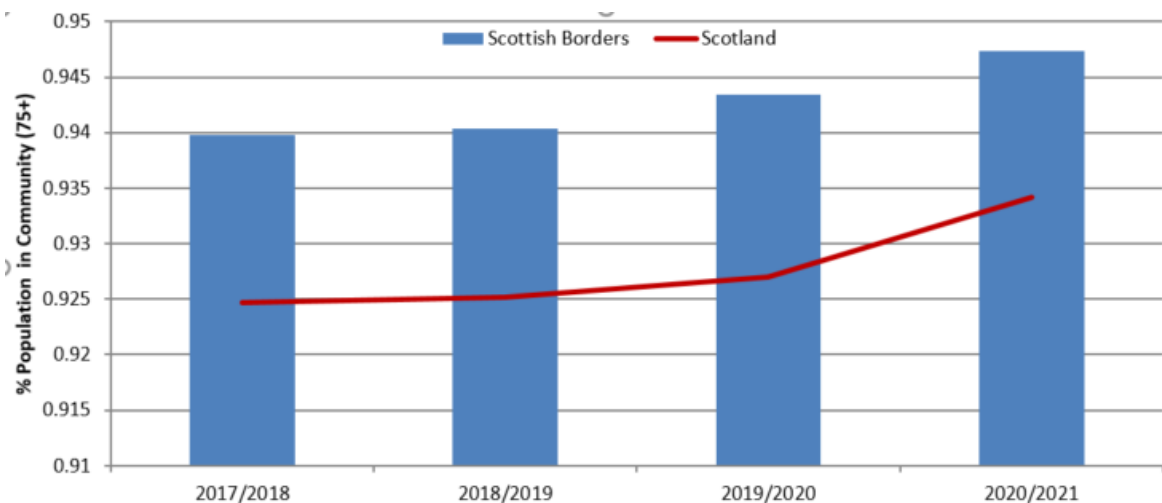
	at 31.03.2021	at 31.03.2022
Central	136	176
Duns	31	52
Hawick	47	20
Kelso	51	76
Peebles	22	81
All Areas	287	405

Referrals received across the Adult teams:

Referrals Received

	21/22 TOTAL
Central	1647
Duns	658
Hawick	1243
Kelso	1003
Peebles	921
START	436
Total	5908

The percentage of the population >75 years of age in Scottish Borders compared to Nationally:



ADULT SUPPORT AND PROTECTION

The Public Protection Committee continues to provide leadership and oversight of the governance arrangements for public protection including Adult Support & Protection (ASP). The operational work for ASP continues to be overseen by the Adult Protection Delivery Group, as advised, we have recently had an inspection of our Adult Support & Protection processes which is due to be published on 18 October 2022.

Over the past year there were a total of 464 Adult Protection referrals leading to 184 ASP full Investigations. This was an increase of 52 referrals from the previous year resulting in 54 more full investigations. The highest service user group referred was older people followed by adults with learning disability. The greatest type of harm referred was physical, followed by financial and then sexual harm. The most usual places for harm to occur was the service user's own home followed by a care home setting.

This increased ASP activity was also reflected in the number of Protection Orders taken – two temporary Banning Orders and two full Banning Orders.

There has been one Initial Case Review under Adult Support & Protection this year, this did not meet the criteria required to escalate to a Significant Case Review.

This past year has seen a process of self-evaluation developed across all ASP activity and performance. Service improvement plans are in place to address areas for development across operational activity, staff guidance and support, and strategic areas of work. To date over half the actions on the plans have been achieved with others well under development.

ASP procedures, both for individual and large-scale investigation processes have been reviewed using a co-production model and new procedures produced. Associated workflows have been updated and a new and more robust set of performance indicators has been put in place. All of these will be monitored and reviewed over the coming months to measure their effectiveness.

Ability to deliver statutory functions and Key risks to delivery

The delivery of ASP continues to be led through the Public Protection Unit which is co-located alongside NHS Borders and Police Scotland services. The role of the Adult Protection Officers has evolved over the past 12 months providing both support to operational teams and undertaking direction and scrutiny for all ASP activity. The unit continues to direct the ASP case work of 'Council Officers' (CO's) investigating under the Adult Support & Protection (Scotland) Act 2007. We are well positioned to continue to meet our statutory responsibilities.

New auditing processes have been put in place and to demonstrate that we are working well to keep adults at risk safe. We continue to uphold our partnership vision that "Everyone in the Scottish Borders has the right to live free from abuse, harm and neglect." Partnership at operational and strategic level remains strong.

Staffing capacity remains the main risk to service delivery however we have made good progress in increasing the number of Council Officers across operational teams. A Borders wide Council Officer rota system is in place to ensure that we can deliver on our duty to inquire and investigate requirements under the Act.

Key figures relating to performance:

Annualised figures:

	2017-18	2018-19	2019-20	2020-21	2021-22
Adult Protection concerns	265	328			
AP Referrals	493	642	583	412	464
AP Investigations	143	194	209	130	184
Initial ASP case conference	34	44	84	43	28
Review ASP case conference	57	112	140	109	57

Referral outcomes:

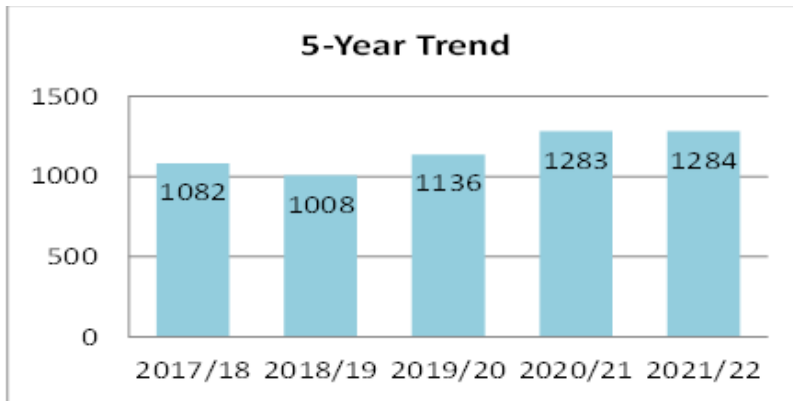
	2017-18	2018-19	2019-20	2020-21	2021-22
Further AP action	265	330	334	186	193
Further non-AP action	228	312	238	185	183
No further action	0	0	11	41	0
Not known	0	0		0	88
TOTAL	493	642	583	412	464

Large Scale Investigations:

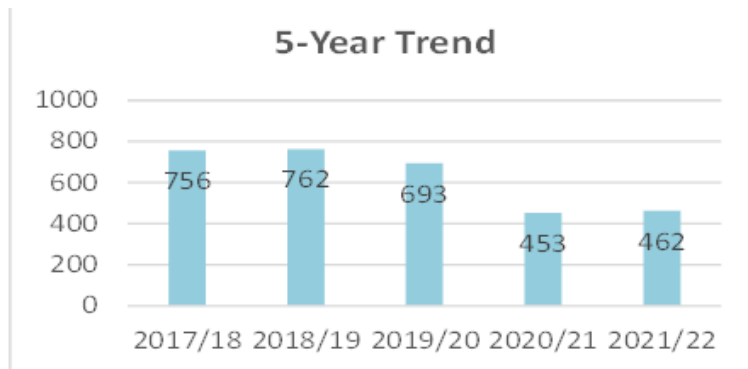
	2017-18	2018-19	2019-20	2020-21	2021-22
No. Large Scale Investigations	2	3	2	0	2

Domestic Abuse figures:

Number of reported incidents of domestic abuse (cumulative)



Number of Referrals To SBC Domestic Abuse Service (DAAS) (Cumulative)



MENTAL HEALTH

Community Mental Health Services are developing a Mental Health Transformation programme. The IJB have recently issued Direction's to the Health and Social Care Partnership to further develop our Community Rehabilitation Support services which will lead to enhanced supported accommodation, a reduction in the number of days patients are accommodated in specialist hospitals and a reduction in local inpatient beds by two. The new model will be up and running by autumn 2022.

Following additional Scottish Government investment in Primary Care Mental Health services, the Health and Social Care Partnership have prioritised the development of Primary Care Mental Health support to under 18-year-olds recognising this as the area of priority need. The development of plans is being undertaken in close partnership with children's social work, education services, the commissioners of children's services and GP's.

General recruitment to vacant social work posts has been a significant limiting factor throughout the year. However, we have managed to fully recruit to vacant posts. Through the additional funding from Scottish Government to boost adult social work staffing we have agreed to recruit an additional full time social worker into the Community Mental Health service.

Ability to deliver statutory functions and Key risks to delivery

We are managing to deliver all statutory functions although there are capacity issues and pressure within the social work team is high. The ability to undertake timely reviews and proactive transition planning is impacted by the challenges presented by the staffing resource in addition to the added pressures to manage the impacts of COVID 19.

MENTAL HEALTH OFFICER SERVICES

Over the period 21/22 the Mental Health Officer Forum has been developed further. Under the National Standards for Mental Health Officers, it is the responsibility of the Local Authority to provide staff training and development. To meet these requirements the previous 6 weekly Mental Health Officer forum has been developed into a training and experience sharing forum. All the Council's MHOs (Mental Health Officers) are invited to the forum (this includes the members of the MHO team, alongside all satellite MHOs and EDT (Emergency Duty Team) staff who are qualified MHO's.

Previously the forums had been used as an opportunity to check in with one another and share experience, but during the reporting period we have expanded this into more of a developmental forum. To this end it is suggested there is a topic for discussion each time and where appropriate invite guest speakers.

During a recent away day for the MHO's, we focused on the Scottish Borders Response to the Mental Health law consultation. Areas for improvement of the local services were discussed including the need for more joined up working and improved interface with our health colleagues. In addition, consideration of the development of local resources such as intensive home treatment teams/ expanding the remit of the current crisis team to reduce inpatient care and thereby reduce the pressure on hospitals was discussed.

During the period 2021-22, three MHO trainees were released from their substantive posts to undertake the MHO Award. These individuals have now successfully passed the course and will add to Scottish Borders Council cohort of satellite MHOs.

To further support learning, consolidate knowledge and build team relationships some of the newly qualified or satellite MHOs are being provided with the opportunity of working in the Mental Health Officer team for a 6-month period. This rolling programme has been possible thanks to the additional monies provided by the Scottish Government as mentioned earlier. In this reporting period we have had one successful secondee.

During this reporting period we have created the post of Adult with Incapacity worker to specifically undertake welfare guardianship supervisions. In addition, we have developed a training programme to enhance knowledge and understanding of the role of guardianship supervision amongst adult social care and health teams.

Ability to deliver statutory functions and Key risks to delivery

The Mental Health Officer’s in Scottish Borders continue to deliver on their statutory functions for Scottish Borders Council.

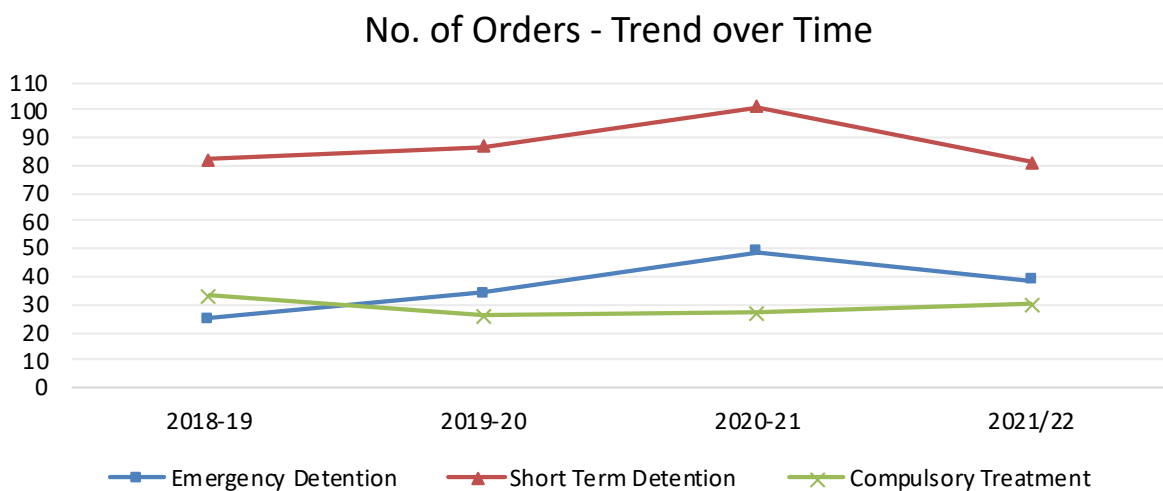
Challenges from COVID 19 are particularly those associated with working remotely. To reduce some of the isolation felt, we introduced teams catch up sessions and encouraged the buddying up of colleagues for peer support.

Key figures relating to performance:

MHO interventions:

during reporting period 01 April - 31 Mar	2018-19	2019-20	2020-21	2021-22
Emergency Detention	25	34	49	39
Short Term Detention	82	87	101	81
Compulsory Treatment	33	26	27	30

Same statistics but in a different format:



Appropriate Adult provision:

Scottish Borders Council has a statutory duty under the Criminal Justice (Scotland) Act 2016 to provide an Appropriate Adult Service. The Appropriate Adult service in the Scottish Borders is managed by the Mental Health Officer Service.

Appropriate Adults are social work staff already employed by the social work service working in our teams across the Scottish Borders. We currently have 35 Appropriate Adults who provide communication support to vulnerable victims, witnesses, suspects and accused persons, aged 16 and over, during police investigations.

The police must provide support for persons in custody who are unable to understand sufficiently what is happening or communicate with the police because of a mental disorder. In practice, this support is provided by an Appropriate Adult.

Scottish Borders Council operate an Appropriate Adult Duty rota to ensure it can fulfil their statutory obligation daily. Data collected to date suggests that Scottish Borders are receiving an increased number of requests from the Police this year than the previous year.

In this reporting period a business support post has been created to specifically work with the Appropriate Adult's service on data collection, coordination, and processes. A referral form and a feedback form has been created which detail time spent on callouts and issues raised. We are eager to embed Appropriate Adult Forums in the Scottish Borders bringing best practice into line with standards set by the Mental Health Officer service and in doing so provide a regular opportunity to offer mentoring and peer support to our Appropriate Adult team.

LEARNING DISABILITY

Social work continues to manage their waiting lists through a monthly prioritisation meeting. There continues to be a prominent level of ASP and Adult with Incapacity Act (AWIA) activity.

As already mentioned, the new Transitions pathway is being implemented to ensure that there is a key focus on supporting the transition of young people into adult services. We are continuing to develop appropriate accommodation and support arrangements in line with needs of service user groups and are progressing plans to develop accommodation to support people with complex needs with the aim of reducing the likelihood of accessing placements out with the Borders.

The commission of the Shared Lives scheme (March 2020) has delivered 11 new placements to date and further placements planned for this year including respite care and day care support for adults with complex needs.

The IJB has now directed the Health and Social Care Partnership to commission a new model of day support services. This will be locality based providing appropriate support for people with a range of support needs. The formal commissioning process has now commenced and is due to complete by November 2022.

The service continues to face significant financial pressures driven by an increase in complexity of need for young people coming through transitions. A lack of specialist health and social care placements, including in-patient services along with social care staffing shortages and inflationary pressures are the main contributing factors driving costs. This is a UK wide challenge.

Ability to deliver statutory functions and Key risks to delivery

We are managing to deliver all statutory functions although capacity and pressure within the social work team is high.

The closure of Day Services due to the impact of Covid 19 and the partial re opening to date has placed increased pressure on family carers and supported living tenancies adding to the risk of placement breakdown.

JUSTICE

Throughout the reporting period Justice Social Work consistently adapted and responded to National and Local COVID recovery plan guidance. The service maintained a level of core service across all elements of justice delivery, despite challenges arising from staff absence due to fluctuating COVID infection rates, disjointed recovery pathways across justice partner services, ongoing lack of face-to-face training and stubbornly entrenched staff vacancies, particularly for qualified social workers.

Key figures relating to performance:

Justice Social Work activity:

during the reporting year 01 April - 31 March	2019-20	2020-21	2021-22
CJSWR Completed	247	143	243
CPO - Supervision Only	43	33	43
CPO - UPW only	110	63	110
CPO - UPW plus Supervision	40	13	24
Total CPO issued	207	110	177
No. of Diversion from Prosecution Referrals	22	43	80
No. of Diversion from Prosecution Assessments	22	27	64
Number of open DTTOs	8	3	1
% of successfully completed DTTOs	44%	60%	50%
DTTOs Imposed	4	0	1
No. of new Voluntary Throughcare Cases Offered	30	10	34
No. of new Voluntary Throughcare Cases Accepted	10	4	10
Open Statutory Throughcare Cases	61	57	32
In Custody	40	42	50
In Community	21	15	12

An internal audit completed as part of the SBC (Scottish Borders Council) Audit Annual Plan 2021/22, the purpose of which was to assess the adequacy of internal controls, administrative procedures, and resources in place to meet statutory obligations, included Justice Social Work's alignment with local Community Justice arrangements.

The Audit was able to provide substantial assurance to the Audit and Scrutiny Committee that the service was delivering within a satisfactory risk; with control and governance systems in place to meet statutory obligations. Internal Audit made no recommendations, noting actions that were underway, at the time- to improve the efficacy of governance to achieve objectives. It also recognised Community Justice Strategy links, advising that; improvement actions should also be considered following reviews carried out by Scottish Government (Justice Strategy), Community Justice Scotland (OPI Framework) and the Justice Service.

Ability to deliver statutory functions and Key risks to delivery

The service maintained a position of delivery for statutory functions throughout the reporting period, despite carrying vacant social work posts. This is primarily due to service demand generated by Courts, Criminal Justice Court Reports and Community Payback Orders, including Unpaid Work remaining lower than pre pandemic numbers.

The Unpaid Work Service, having taken learning from the first "lock down" period and the commissioning of external digital provision, including Street Cones and The Wise Group, for Other Activity, was able to continue to offer some limited opportunities to service users to engage during the second "lock down" period.

Significant staffing and performance issues within the Unpaid Work Service, limited the services ability, during the reporting period, to perform at a level that enabled adherence to National Standards and Outcomes. Raising the potential to destabilise the Courts confidence in the services ability to deliver Unpaid Work and or Other Activity. Swift action was taken to resolve the situation, including a trawl of all files for those subject to unpaid work by senior staff, and appropriate action taken to return cases to court, as required, ensuring appropriate and timeous case management arrangements were put in place. As we move into the next reporting year, maintaining this position remains challenging given this element of service continues to experience significant staff issues.

Key risks include: The potential for the Court to lose confidence in the ability of Unpaid Work Service to deliver, stemming from a lack of dynamic and proactive service management, ongoing challenges in adapting to covid recovery plans, and a high staff turnover, creating an inexperienced workforce.

CHILDREN & FAMILIES SOCIAL WORK

During the period 1 April 2021 to 31 March 2022, the number of referrals made was 2938, an increase on the 2490 referrals in 2020/21. Arrangements are in place to screen and prioritise referral information quickly via the Children & Families Duty Team based at Langlee. Whilst social work is not an emergency service, swift responses to referrals are considered good practice.

Looked after Children (LAC)

In 2021-22 there was a monthly average of **176** Looked After Children (LAC) in Scottish Borders, a decrease from the monthly average of **182** in 2020/21.

As of 31 March 2022, there were **174** LAC; of these **26** were at home, **49** were in kinship care, **59** in internal foster care, **7** in external foster care, **0** in secure care, **30** in residential care and **3** in "other."

Kinship Care

The most marked change in relation to LAC is the rise in the number of kinship care placements, increasing from **25** children in 2010-11 to **49** children in 2021-22.

Kinship care is a formal care status and regulated under the Children and Young People Act (Scotland) 2014. Kinship carers are paid an allowance for the children they care for which equates to the allowance paid to foster carers. The benefits of providing alternative care for children within their own family and community are clear in terms of positive identity, relationships, and sense of community.

Details in respect of fostering, permanence and adoption are contained with the Scottish Borders Fostering Panel Annual Report 2021 and the Scottish Borders Adoption and Permanence Panel Annual Report 2021; both reports are based on the calendar rather than fiscal year period.



Performance Panel
Annual Report 2021



Fostering Panel
Annual Report 2021

Key figures relating to performance:

Duty team referrals:

C&F Duty Team	Annual Average	
	2019-20	2020-21
Total No. of Referrals	2326	2490
No. of Referral & Screening (New Cases)	320	298
No. of Referral & Screening (prev referred)	752	775
No. of One-off Contacts	1254	1417

Children Affected By Disability Team workload:

CHAD	Annual Average	
	2019-20	2020-21
Total No. of CHAD Cases	151	169
No. of cases (Serviced)	21	28
No of cases (Receiving SDS/DP)	52	49

16+ team caseloads by type:

16+	Annual Average	
	2019-20	2020-21
Total Number of Cases	93	83
No. of LAC Cases	7	10
No. of Continuing Care Cases	31	29
No. of Aftercare Cases	52	44

Long term team allocation and breakdown of type of case:

LTT	Annual Average	
	2019-20	2020-21
Total LTT Case Load	443	452
East Team	202	203
West Team	241	249
Looked After Children	181	176
East Team	93	86
West Team	88	90
Child Protection	40	45
East Team	19	24
West Team	21	21

Family Placement/Resources

Despite on-going recruitment activity, the Family Placement Team saw a reduction of 6 foster carer households in 2020 (calendar year). Although the overall number of children and young people placed in foster care / continuing care saw a slight reduction the percentage occupation of approved foster placements increased from 89% to 100%.

Despite the pressure on the Scottish Borders Fostering Service, developments continued across the service. Of note was the introduction of Foster care Welcome Packs for children and young people when they arrive in a new foster placement. The contents of the packs were decided upon jointly by young people with care experience, foster carers and the Family Placement Team. The team's approach to participation has been enhanced with the development of a joint foster carer – Family Placement Team (FPT) group. The FPT Development Group which aims to develop aspects of the service and support for both carers and children. A quarterly Family Placement Newsletter for children and young people was also introduced in 2020-21 and has been well received. The Newsletter is a combination of pertinent information for children and young people (around initiatives, developments, advice and guidance) and fun articles. The Newsletter has been well received.

The team are particularly proud of Betty Falconer, Foster Carer, who was awarded the President's Award 2021 from the Fostering Network's Fostering Excellence Awards 2021. Betty has been a foster carer with Scottish Borders for around 20 years and has worked tirelessly on both a local and national basis to improve services for children and young people in foster care.

The Family Placement Team also assess and support kinship carers. Over 2020-21 a specific support group for kinship carers was commissioned from Children 1st who now provide an independent Kinship Care Support Group on a monthly basis.

Wheatlands Children's Home continued to provide quality residential care for young people in the Scottish Borders over 2020-21. They were graded as 'Excellent (6)' for 'How well do we support children and young people's wellbeing?' and 'Very Good (5)' for 'How well is our care and support planned?' As part of their approach to implementing the findings of the Promise, Wheatlands initiated an action plan to improve Love and Relationship Based Practice within the home. The plan was co-produced with young people and covers areas such as training and improving staff awareness of the importance of love and relationship based practice; on-going participation and advocacy for young people; ensuring a positive physical environment; and, encouraging ex-residents to remain involved and access support from the Wheatlands residential staff team.

Key figures relating to performance:

Children adopted / placed for adoption:

	2019-20	2020-21	2021-22
Children adopted during the reporting year (Apr-Mar)	1	0	
Children placed with prospective adopters at 31 March	3	2	4

Looked after children (LAC) placed outwith Scottish Borders area – figure, percentage of LAC outwith and number of kinship placements:

	2019-20	2020-21	2021-22
LAC placed outside areas as at 31 March	40	41	44
% OOA	21%	24%	24%
Kinship placements as at 31 March	57	52	48

Number of LAC and figure + percentage in residential care:

	2019-20	2020-21	2021-22
Looked After Children as at 31 March (SBC)	195	173	180
Looked After Children as at 31 July (Scotland)	14,458	13,255	-
Residential Placements as at 31 March	29	27	30
% Residential Placements	15%	16%	17%

Secure Accommodation numbers per year:

at 31 March	19	20	21	22
"Secure Accommodation" placement type	2	1	1	0

Child protection orders granted in court:

01 Apr - 31 Mar	2018/19	2019/20	2020/21	2021/22
Child Protection Orders granted	9	0	1	2
	8	9	18	12

Complaints

With regard to complaints about Social Work services, there were 120 complaints received in the year April 2021 – March 2022. Of these 98 were concluded with 32 being upheld, 58 not upheld and 8 relating to policy issues which were also not upheld. It should be noted that some of the complaints are very complex and given that 120 were received as a snapshot of the applicable year, the remaining 22 were ongoing beyond the reporting year.

Duty of Candour

All Health and Social Care Services in Scotland have a duty of candour. This is a legal requirement which means that when unintended or unexpected events happen, that result in death or harm as defined in the Act, the people affected understand what has happened, receive an apology, and that organisations learn how to improve for the future. There has been <5 Duty of Candour incidents in the reporting year for Scottish Borders Council. From this, significant learning has been identified and implemented across services to mitigate the potential of this type of issue occurring again. There is an annual report where more detail can be found.



CHIEF SOCIAL WORK OFFICER ANNUAL REPORT 2021/22

RESOURCES

It would be fair to say that all services across the social work and social care landscape are under pressure. Whilst this is not unique to Scottish Borders, there is an ongoing need for us to overlay decision making in the context of the rurality challenges we face. Primarily this is in the context of maximising positive outcomes for those we serve, whilst maintaining a best value approach for the resources we have.

Scottish Government have provided additional funding for Adult services via the Health and Social Care Partnership which is primarily to support the recovery from the pandemic. However, it is apparent that there has been no additional resource in relation to children and families social work services. There are pressures within children and family's services as we begin to see the full effects of the pandemic on children, young people, and their families, particularly in relation to the impact on mental wellbeing. We are seeing a trend of complex cases which are irretrievably breaking down, sometimes requiring alternative care provision for these children and young people. It is hoped that the work that will be taking place in relation to the delivery of the Scottish Governments 'The Promise' will impact upon acute presentation and focus more on early and effective intervention. However, we recognise that this situation is not a quick fix and fundamentally shifting the balance of care will take a significant amount of time.

ADULT SOCIAL WORK

Given the new requirements set by the Care Inspectorate on care home living conditions including environmental factors such as room sizes, work is underway within the Health & Social Care Partnership to scope the provision of a care village based in Tweedbank. A 60 bedded multi-housed complex catering for older adults and intermediate care is being investigated, based on a community living model including a social centre and shop. A similar model is being scoped for the Teviot area.

We have had two new extra-care housing facilities purpose built within the last reporting period. This has provided properties in both the Galashiels and Duns community areas. In Galashiels 39 extra care housing flats are now in place and in Duns, there are 19 amenity bungalows and 30 extra care housing flats with a mixture of one or two bedrooms. Of the resources in Duns, 4 beds have been protected as step up / step down provision. Step up from the community to prevent hospital admission and /or alternative accommodation to those living in the community who are requiring crisis intervention or a place of safety and step down beds to facilitate discharge from hospital to await a return home or transfer to a homely setting.



Both of the extra-care provisions above has a 24hr staff team on site delivering flexible care, support, a meal service and tenancy management.

Financial Resources

It is recognised that there has been some additional financial resource for adult services, however there is a continuing need to make efficiencies as part of the wider corporate savings plans. This is challenging as we move into a position where the cost of living is increasing for people in our communities as well as increased costs in relation to transport, equipment etc.

ADULT SUPPORT AND PROTECTION

The Adult Support and Protection budget has been optimised and a plan is being developed to create an operational Quality Assurance role which will support Council Officers undertaking investigative work and which will oversee the quality of practice.

MENTAL HEALTH

Mental Health Services continue to experience financial pressures. The service is focussing on maximising its reablement services such is the Local Area Coordination service as well as reviewing its Day service model of support.

MENTAL HEALTH OFFICER SERVICE

The Mental Health Officer service is maximising the available resources to ensure that we are positioned to be able to respond to the challenges ahead. The crucial statutory role that the MHO's provide in relation to mental health assessments and guardianship processes under the Adults with Incapacity (Scotland) Act 2000 is a clear priority.

LEARNING DISABILITY

There is financial pressures within this service with elevated levels of support needs and the replacement care costs for those unable to access Day Services due to the impact of COVID 19.

Work is underway to increase local resources to reduce the number of people being placed out of Scottish Borders. We continue to work with NHS Lothian in the development of NHS in-patient facilities for AWLD (Adults with Learning Disabilities) to reduce the number of expensive private hospital placements.

The Shared Lives service provides more cost-efficient care and support than previously available models of support. This is delivering significant cost avoidance for the service.

Substantial improvement actions in the assessment and care planning process are resulting in the maximisation of enablement, the development of outcome focused support plans and the maximisation of our local area coordination service.

JUSTICE

The service welcomed additional Scottish Government Recovery Grant funding; in addition to Section 27 monies. The first tranche of recovery funding did not however support the local recruitment of additional staff, primarily due to insufficient time to facilitate recruitment processes for temporary posts, and the lack of any mechanism to carry funding over into the next fiscal year. As a result, short term contracts that might have been offered were not practical to the service when induction and training required to be included in the available period. The opportunity to recruit from an additional tranche of funding, has resulted in relief staff being recruited within the Unpaid Work Service in addition to an additional 10-hour social work post. The additional social work support offered has been highly valued by social workers due to the elevated level of skill, knowledge, and experience of working with Registered Sex Offenders, and the delivery of community programmes including MF: MC, held by the successful candidate. The appointment not only provided much needed support for the completion of Risk Assessments and Court Reports, but also facilitated a degree of quality support and learning opportunity for inexperienced staff, at a time when partner service provision was limited and or national training was “on hold.”

Recovery Grant funding enabled the Unpaid Work Service to purchase specialist equipment and enhance work opportunities within the workshop. The purchase of a minibus allowed the service to increase the number of service users who could be transported to participate in project work across more rural parts of the Borders. The vehicle is also utilised by social workers, who facilitate socialisation and physical and emotional well-being opportunities for all service users; including walking and sports groups.

Local third sector organisation, Work+ were commissioned to provide enhanced employability and training opportunities. The service can dovetail into supports offered by the commissioned Adult Learning Support Service provided by the SBC Community Learning and Development Service.

Street Cones – “Road to Change” programme is a specialist 12-week online work programme, targeted at behavioural change through creative workshops. Commissioning of this programme provides an interactive art based alternative opportunity for the completion of Other Activity.

CHILDREN & FAMILIES SOCIAL WORK

The overall revised budget for Children and Families Social Work has remained static despite additional expectations from National legislative, policy and guidance changes and increased costs.

The largest spend within the budget is in relation to External Placements which includes Day Care, Foster care, Residential care, and Secure care.

There have been several changes and trends over the last 5 years in children's social care needs. These have included a rise in the number of children either requiring accommodation or being on the edge of accommodation due to significant and complex physical and mental health issues, the impact of COVID on familial relationships and child well-being, and policy impacts e.g., Unaccompanied Asylum-Seeking Children.

Most external providers have 'in-house' health and psychological services and offer a range of therapeutic services not available within local resources. Prices are non-negotiable although the council's Procurement Team have worked hard to limit uplifts and placement costs through challenging proposed increases from providers. As a small local authority with few external placements, we spot-purchase which leaves no option of block negotiation.

There are no year-to-year increases in the Children & Family Social Work budget allocation to reflect increases to external placement costs which places strain on the budget.

The costs associated with kinship care continue to rise as the number of carers increases; the costs associated with payments have risen from £585,238 in 2017/18 to £878,212 in 2021/22. Additionally, as the number of kinship carers has grown, so too has the level and volume of support provided.

Likewise, continuing care is placing additional pressure on the service budget and there will be an on-going budgetary impact unless additional action is taken, and investment made, to reduce the number of children in care and external care provision.

Recruitment and retention of social workers has been an issue within the service for several years which has resulted in posts remaining vacant or being filled by temporary agency staff. This is a risk in relation to delivering essential services and on the wellbeing of staff who are working above their contracted hours to ensure children are safe. As an organisation, we are mindful of the potential for 'hidden harm' in relation to the impact on staff from this level of ongoing pressure; the importance of ensuring that staff are appropriately supported through supervision by line managers is critical in mitigating this.

More recently, there are fewer agency staff available to undertake short term roles; it is likely this is due to a shortage of social workers nationally resulting in a prominent level of demand for agency workers because of COVID-19. Agency staff costs in 2018/19 was £626,888, and have reduced year on year since, with the overall cost in 2021/22 being £299,613.

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WORKFORCE

It is important to note that we are undertaking a workforce planning process across all services. This is to ensure that we can map and effectively plan for future workforce needs, including the need for systemic succession planning. This is not happening in isolation but is being done across the Health & Social Care landscape as well as Council wide.

Workforce planning and development is a key aspect for the recruitment and retention of staff in Scottish Borders. Every Social Work service has had difficulty in attracting staff to vacant posts. To support the recruitment process, staff in conjunction with Human Resource colleagues have worked hard to make Scottish Borders a good place to live and work. We have embarked on extending where we advertise as well as using what we have learned from COVID-19 to promote the agile ways of working that we have implemented on the back of the pandemic.

There is a national issue in relation to the recruitment and retention of staff in Social Work and Social Care which has been exacerbated by people leaving the profession on the back of the pandemic. By looking at how we create career pathways for those we employ, as well as offering attractive learning and development opportunities, we hope to be able to successfully fill permanent posts which are vacant.

We will be undertaking a review of the role and function of professionally qualified Social Workers to ensure this is aligned to the statutory functions and ensure we have oversight of capacity now and what we need in the future. We want to develop an autonomous workforce that can adapt and change their approach in line with the changing needs of those we serve. This on the surface sounds straight forward, however this does involve a significant change in the culture of the organisation and profession.

It is noted that there continues to be an ongoing challenge to recruit social workers and occupational therapists within Adult Social Care and Health. We have several vacancies in both roles with a limited number of applicants when advertised. We are also struggling to secure agency staff to support teams in the short term which is challenging.

Due to some of the challenges of recruitment and retention, we recognise the impact that internal secondments and temporary posts can have an impact on the stability of the service, as well as having an impact on the wellbeing of our staff. There are circumstances where this is inevitable, however, by engaging in the people planning process, we hope to develop more stability in the workforce going forward.

There are innovations that are taking place to assist with some of the recruitment and retention challenges, namely:

Social Work Trainee Scheme Career Pathway

A key response to the challenges of having a sufficient number of qualified social workers is the SBC Traineeship Scheme to 'grow our own' qualified Social Workers through a Scottish Borders' partnership with the Open University offers existing permanent staff the opportunity to have a pathway to a professional social work qualification. This career pathway provides the opportunity to develop and retain current staff as well as attract new talent.

We are actively considering, with the OU to be considered by the SSSC, how apprenticeships can be developed as an additional entry point to develop future skills and build future capability. It is anticipated that apprenticeships will be vital to post-COVID recovery, and create a new entry point and route to a career in social work.

The first intake of trainees began in 20/21 and last year (2022) there were 5 trainees that successfully finished their trainee scheme, and are now Newly Qualified Social Workers (NQSW).

The table below illustrates the current number of students on our Social Work Trainee Career Pathway programme for the next 3 years.

Stage	Number of Students on Social Work Traineeship Pathway	Number of Students Estimated to Finish August(PG)/October (UG)		
		2023	2024	2025
1&2 Modules (pre training scheme)*	13	N/A	N/A	N/A*
Undergraduate (on training scheme)	6	3	2	1
Postgraduate (on training scheme)	7	2	5	0
Total	26	5	7	1*

*Potentially the total number of qualified Social Worker in 2025 could be 14, should they all be successful at each stage of the pathway.

We are also exploring the opportunity (with partners) to create career pathways for Occupational Therapists, assessing how we can encourage people into the role and create pathways which identify recruitment opportunities for this vital service to assess the needs of our communities. We are also exploring how we can recruit and retain Care Home staff and Home Care staff to ensure that we are looking beyond the immediate and future proofing the continued delivery of services. This will involve career pathways that are meaningful for people considering a career in care provision.

Newly Qualified Social Worker supervision training:

With colleagues in Staff Development, we are looking at how we support and nurture our Newly Qualified Social Workers by ensuring that key front line operational managers have the necessary training to provide the right support, at the right time to this critical cohort of staff.

Adult Social Work and Social Care Wellbeing Fund:

We welcomed the Scottish Government's 'The Workforce Wellbeing Fund for Adult Social Work and Social Care', managed by Inspiring Scotland to provide grants of up to £10,000 until December 2022 for adult Social Work and Social Care staff. This is a great opportunity for staff to consider how their wellbeing can be supported following a period of extreme pressure. The minister highlighted that "Workforce wellbeing must remain a priority as we continue to move through this pandemic and recovery. We will overcome the challenges ahead if we look after our people." (Minister for Mental Wellbeing and Social Care Kevin Stewart, 02 February, 2022).

It is unfortunate that this was only available to adult staff across Scotland.

IRISS analysis workshop:

In conjunction with the Institute for Research & Innovation in Social Services (IRISS) we had 30 staff take part on a workshop to develop skills in writing analysis in Social Care. The output of the workshop series was an online course (<https://content.iriss.org.uk/writing-analysis-social-care/index.html#eir>) which would provide a practical framework for supporting the writing of analysis in social care records, and be relevant across social work domains. IRISS developed this course in collaboration with Dr Theresa Lillis, drawing on the insights generated from the IRISS project and findings from the Writing in professional social work practice in a changing communicative landscape (WiSP) project. This course was launched in March 2021 and is now available on the IRISS website.

From Scottish Borders, the following staff representation took part:

- 10 participants from adult social care and health, including adult protection officers
- 8 participants from Justice, Mental Health teams and the Learning Disability service
- 12 participants from children and families social work, including Child Protection Reviewing Officers

The Promise:

Scotland has an ambition 'to be the best place in the world to grow up' so that children are 'loved, safe, and respected and realise their full potential'. The Promise, published in March 2020, reflects what Scotland must do to "make sure its most vulnerable children feel loved and have the childhood they deserve."

Keeping The Promise requires us to work collaboratively with our multi-agency partners to bring transformational change to the way we deliver our services for children, young people and their families. Change that places love and relationships at the centre of the experiences and outcomes for every child, and keeps the views and voice of children and young people at its core. Scotland has made this Promise to our children and young people, adults and families and we need to ensure we are keeping the Promise in Scottish Borders.

This is an exciting area for Scottish Borders and crucially it gives us the strategic framework for our staff to work more collaboratively across the multi-agency landscape to improve outcomes for all children, young people and their families locally.

Public Protection:

In terms of the workforce and how we ensure that they are clear about their roles and responsibilities in relation to Public Protection, the operational unit consisting of Police Scotland, NHS colleagues and Social Work staff continue to work closely with the Lead Officer for the Public Protection Committee and the Quality Assurance and Development team. The Public Protection training and development delivery group have produced a new multi-agency training and development strategy as well as a framework this year, which has been disseminated widely across the partnership agencies.

Training remains a priority for both child and adult support & protection and a new training matrix is now in place ranging from introduction to public protection, contributing to ASP processes, risk assessment, Council Officer training and targeted service provider training. In relation to Adult Support & Protection (ASP), we have 29 new 'Council Officers' trained between April 2021 and March 2022, and we are in the process of setting up a new accreditation process for newly trained Council Officers, and a reaccreditation process for existing Council Officers. We are in the early stages of scoping out a plan for joined up ASP training with Midlothian and East Lothian Councils with a view to piloting this over the next year.

Drug Treatment and Testing Orders (DTTO):

Confidence by the Court for successful outcomes aimed at those subject to DTTO dipped over the last few reporting years, resulting in a significant decrease in the number of assessments requested and orders issued. No orders were issued in 2021. This resulted in a Root and Branch review of the service within the reporting period. The review sought to identify good practice models from providers across Scotland. The Ayrshire Partnership DTTO service model was identified and adopted as offering a comprehensive approach to working with those subject to DTTO. NHS Addiction Services remain the prescriber for substitute medication in line with the new Medical Assisted Treatment standards. Dedicated DTTO justice social work staff manage court orders through a robust case management, testing and progress review process. All DTTO social work staff completed drug testing training, allowing them to undertake additional testing if required. Service user outcomes, absent from the previous delivery model, are now in place and informed using Outcome Star; needs identification tool. The new model of delivery was implemented 1st April 22. Staff delivering the service report "I feel the new comprehensive approach to DTTO assists in supporting people on the road to recovery. The focus on an individual's needs through the Outcome Star helps the person to buy into the Order and hopefully will help them see the progress they have made." Early indicators from service users support consideration that benefits are gained from the structure of more frequent testing in the initial stages.

Caledonian System-Men's Programme:

The Caledonian System is an integrated approach to address domestic abuse by men towards female partners or ex-partners. It works with men convicted of domestic abuse related offences to reduce their reoffending and to improve the lives of women, children. 2021/22 saw the disaggregation of a long-term partnership between Scottish Borders and partners Edinburgh City, East and Mid Lothian, for the delivery of the support to women and children. Successful arrangements were put in place to separate the joint Equalities Grant Funding utilised to fund the services woman's and children's worker. The aim of the adjustment was to bring full-service delivery, support to women and children and the men's programme, under the umbrella of local service provision, to overcome entrenched barriers for attendance and long-term engagement with the men's programme by those subject to a Community Payback Order with Programme Requirement. Barriers experienced by many group participants included a lack of available public transport from rural areas, significant travel distances and limited availability of places that could accommodate employment and carer responsibilities. Until this time, delivery of the Men's programme was delivered by Edinburgh City Social Work colleagues to participants across all 4 partnership authorities.

The service recruited 2 x 17.5-hour group work facilitators, adding to the existing women's and children's workers, and creating a dedicated systems delivery team. National training constraints, due to the impact of COVID, delayed programme delivery training for the new group work staff. An interim delivery arrangement was implemented, spring 22, supported by an experienced team leader. Full-service delivery is anticipated to come online summer 2022.

The National Care Service:

The development of a National Care Service is a clear ambition for Scottish Government. Whilst matters have progressed beyond the scope of this report (April 2021 – March 2022), it is inevitable that there is a degree of focus on what this will mean for the Social Work and Social Care workforce in the future.

Managing expectations and to some extent people's concerns and anxieties about what the future may bring can be challenging. However, I am pleased to say that staff at a local level have maintained their focus on the needs in our communities now whilst we await more detail to come following impending further consultation processes going forward.



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THE YEAR AHEAD

The year ahead is difficult to predict. The work that is ongoing with regard to the development of a National Care Service is adding a degree of uncertainty for staff across the Social Work and Social Care landscape. There are clear challenges that we face regarding winter pressures, how we meet increasing demand which is not matched by increasing resource, the ongoing legacy of the impact of the pandemic on people across our communities, significant challenges in relation to the recruitment and retention of staff etc.

However, we have a lot to look forward to:

The Pathfinder project will deliver on the following points:

- **The Council Information Hub** – all data is in a useable format, making performance management much easier and to give clear data in relation to trends, analysis and predictors. As Social Work services are on the vanguard of this project, it creates an exciting opportunity to realise the benefits of having good quality information at our fingertips.
- **Enterprise Mobility** – staff will have the right equipment to be able to carry out their role and function in as efficient a manner as possible. The potential of being able to sit down with someone we are working with to co-produce is something that each and every member of staff wants to see and do.
- **Process Redesign and Simplification** – the opportunity to reduce bureaucracy within Social Work is something that every member of staff would actively welcome.

For staff this will mean:

- More time with clients and less time in systems
- Access to the right information, at the right time, in the right place
- Update records live – remove duplicated reprocessing
- Eliminate unnecessary travel
- Safe working with Lone Worker protection
- Make better decisions – more timely, more meaningful interventions

For managers this will mean:

- Self-serve reports – less time and more up to date data
- Drillable dashboards deliver greater service insight
- Better holistic and detailed views of their service performance
- Repeatable Trend Analysis – better informed, more proactive decision making
- Better able to understand the communities they support



For the organisation this will mean:

- Reduced cost of reporting
- One source of data eliminates duplicated reporting and allows for one version of the truth
- Greater opportunity to spot patterns and anomalies and avoid risk
- Greater ability to use predictive analytics to inform future planning

Workforce Planning:

This process will allow us to work across the entire landscape of Social Work and Social Care as well as across the wider services areas. By looking at our workforce through the lens of now and into the future, we will ensure that we can identify gaps and ensure that we are as well positioned as possible to meet future need. Succession planning is a key aspect of this, as is our ability to continue with innovations like the Social Work Traineeship.

Development of Locality Services :

Alongside multi-agency partners, we will be looking to develop our services to ensure that we are people orientated. This means being more visible and accountable to our communities across Scottish Borders and approaching this with an open approach to Community Empowerment and coproduction of services locally.

The planned scoping of additional services locally:

The continuation of planning around our ambition for developing local care villages and the development of a residential provision for children and young people with complex needs.

The Promise:

In the next year we will be establishing the strategic oversight of all services to children, young people and their families in Scottish Borders under the banner of the Promise. With a significant emphasis on the whole system needing to respond to need, we will endeavour to begin the process of shifting the balance of care to encourage earlier responses to need and to help maximise positive outcomes in our communities.

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CONCLUSION

In conclusion to this year's annual report, as the Chief Social Work Officer, I am once again privileged to have the opportunity to highlight the effort that has been made to support our communities and would like to thank each and every member of staff from Social Work and Social Care for their hard work and dedication in providing critical services in continually challenging circumstances.

The commitment of staff, partners, families, carers and communities to keeping people who use our services at the centre of everything that we do is testament to each and every person.

The coming years will continue to be challenging for everyone, but by engaging in meaningful discussion with staff, people who use our services, their families and carers, and our communities, we will continue to do everything that we can to ensure that we achieve the best possible outcomes for all.

I am particularly encouraged and ambitious about how we can continue to work collaboratively across the multi-agency landscape to improve outcomes where at all possible. By supporting our staff and continuing to innovate the way in which we operate, I am confident that Scottish Borders Social Work and Social Care services will continue to rise to the challenge.

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DAY SERVICE PROVISION TEVIOT AND LIDDESDALE – NEXT STEPS

Report by Joint Director of Health and Social Care Integration

SCOTTISH BORDERS COUNCIL

27 October 2022

1 PURPOSE AND SUMMARY

1.1. The purpose of this report is to advise Members of the next steps relating to reviewing Day Service provision in Teviot and Liddesdale.

1.2 In June 2019, the Executive Committee decided that it would decommission the then existing Day Centres. One of those centres was the Teviot Day Centre in Hawick. In late 2021 a Petition was lodged in the Court of Session seeking a Declarator that this decision was unlawful. The case was heard by Lady Carmichael on 28 April 2022.

1.3 On 20 September, Lady Carmichael issued her judgment. She found that the Council's decision to close the Teviot Day Centre was unlawful and she "reduced" that decision. That means, in effect, that the Council has not decided to close that Centre. The Court found that SBC had failed to properly undertake an Equality Impact Assessment and, also, that it had failed to properly consult with effected parties.

1.4 In Council on 29th September 2022, the Council noted that it accepted the Court judgement with regard to Teviot Day Centre, and agreed for a further report detailing the next steps to be presented in the October meeting of Council.

1.5 The Council has apologised to Service Users and this report now sets out proposed next steps.

2 RECOMMENDATIONS

2.1. It is recommended that Council:-

- a) Note the update on the next steps in reviewing Day Service provision in Teviot and Liddesdale;**
- b) Agrees that a new process of consultation on the design and delivery of day services, and new equalities impact assessment will now be undertaken;**
- c) Requests that a report recommending the way forward for day services be brought back to Council by the Chief Officer following appropriate consideration with the Integration Joint Board.**

3 BACKGROUND

- 3.1 Through 2017 and 2018 Scottish Borders Council and the Scottish Borders Health and Social Care Integration Joint Board sought to consider how best the needs of Day Service users could be met within the Scottish Borders. Through that process it was noted that there had been a sharp decline in the number of service users who attended Day Centres (from 240 in 2014/15 to 43 in 2019). It was considered, at that point, that service users gained more from alternative community based services rather than the traditional Day Centre model. This was also in line with government guidance.
- 3.2 On 4 June 2019, a paper was taken to the Executive Committee where it was agreed that individual Day Centres would be decommissioned. Importantly, that would not happen until "suitable alternatives that met assessed needs were identified for older adults".
- 3.3 In March 2020, the Teviot Day Centre was closed as a result of Covid. It has not yet re-opened.
- 3.4 In 2021, a petition was made to the Council's Audit & Scrutiny Committee, and following a hearing, the Committee remitted the petition to the Health and Social Care Integration Joint Board to examine the scope of buildings-based services that the Borders may require in the future, including the alternatives of day centres and social centres. A Carers' group has now been formed and work is on-going.

4 INTEGRATION JOINT BOARD PROCESS

- 4.1 The Integration Joint Board accepted the remit from the Scottish Borders Council and delegated the work required to the Integration Joint Board Unpaid Carers work stream. As there were a number of unpaid carers on this group, and representatives from carer organisations that advocate for unpaid carers, it was agreed that this would ensure good co-production of the next steps relating to the process.
- 4.2 The work stream has agreed that the approach would be based on need and would fit into wider work relating to the carers needs assessment being developed to help inform the strategic direction for the future commissioning of services.
- 4.3 A survey of carers views has been undertaken and these survey results became available at the end of September 2022. These supported the view that day service provision is a priority for the Scottish Borders. These results were reviewed in the Integration Joint Board Carers work stream meeting on 28 September 2022, both in the context of the feedback from carers and the judgement from the Court of Session.
- 4.4 A high-level mapping process for what services are in place already, what good looks like for buildings based day services, what carers on the group would want to see, and who should be engaged with in the next steps will now be developed.

- 4.5 The intention is to design a seamless service offering across Health and Social Care services, which will provide enabling, person-centred and relationship centred support. This will include the provision of information and support to both carers and those being cared for who use services.
- 4.6 Work on the future design of day services will be treated as a fresh process, with a new Integrated Impact Assessment and further consultation within the Teviot and Liddesdale locality initially. This will help inform similar future work in other localities and will include work to explore opportunities to integrate with services and to develop new approaches.
- 4.7 No decisions as to the future model of day service delivery have as yet been made, and a future consultation on the model of day service provision will now be undertaken, referencing the work of the unpaid carers group. Work to re-design services will adopt the principles of co-production, fully involving and engaging service users, carers, and other stakeholders in a thorough process of consultation. The process will ensure that equalities issues are fully identified and addressed, along with the views of consultees in developing the future service delivery model.
- 4.8 A paper will now be produced making recommendations for review by the Integration Joint Board Strategic Planning Group in November, prior to discussion at the Integration Joint Board in December. This will then be brought back to Council with a recommended way forward.

5 IMPLICATIONS

5.1 Financial

There are no financial implications to the proposals included in this report at this stage. The further reports which will be taken to the Integration Joint Board are likely to include financial implications. The financial implications of any decision will require to be addressed as part of the budget setting process for 2023/24.

5.2 Risk and Mitigations

The Council is required to comply with the legal judgement issued by the Court of Session and failure to do so will result in reputational damage and potentially result in further legal challenge.

5.3 Integrated Impact Assessment

An Integrated Impact Assessment will be developed as part of the next stages of the Integration Joint Board's process.

5.4 Sustainable Development Goals

While future reports on this topic are likely to give rise to issues relevant to agreed Sustainable Development Goals, there are none arising from this paper.

5.5 Climate Change

At this stage, as we are at the scoping stage, we are not clear on the impacts on Climate Change. Future reports to the Integration Joint Board may give rise to further Climate Change considerations.

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Sexual Entertainment Venues

Report by Chief Legal Officer
SCOTTISH BORDERS COUNCIL

27 OCTOBER 2022

1 PURPOSE AND SUMMARY

- 1.1 This report advises members of the responses received to the Stage 2 consultation on the content of the Council's draft Policy Statement on the Licensing of Sexual Entertainment Venues ("SEV's) in the Scottish Borders area.**
- 1.2 At its meeting on 31 March 2022, Council approved the draft Policy Statement and instructed the Executive Director Finance and Regulatory Services to carry out a Stage 2 public consultation. Following the conclusion of the stage 2 consultation on 18 September 2022, 17 responses have been received and these responses are detailed in Appendix 1.
- 1.3 The responses received to the stage 2 consultation were overwhelmingly in favour of the content of the Council's draft Policy Statement on the Licensing of SEV's. A copy of the Council's draft Policy Statement on the Licensing of SEV's can be found at Appendix 2.

2 RECOMMENDATION

- 2.1 It is recommended that Council adopt the draft Policy Statement on the Licensing of SEV's with immediate effect.**

3 BACKGROUND

- 3.1 The Air Weapons and Licensing (Scotland) Act 2015 has, from 26 April 2019, amended the Civic Government (Scotland) Act 1982 to introduce a discretionary power for Local Authorities in Scotland to licence SEVs within their individual areas.

A SEV is any premises at which sexual entertainment is provided before a live audience for financial gain and where its purpose is the sexual stimulation of members of the audience.

There are no SEV's in the Scottish Borders area and as far as the Council is aware, there are no plans to open one. There are SEV's in some of the cities or larger towns in Scotland.

- 3.2 Since the new power falls within the Council's responsibilities for Civic Government Licensing, its introduction was intimated to the Civic Government Licensing Committee at an informal meeting held on 25 October 2019. Members of the Committee expressed support for the idea that Council should consider adopting a Resolution. They were keen to explore the option of having a regulatory framework in place that would be operative if an SEV seeks to operate within the Scottish Borders area in future.
- 3.3 The Committee Members asked that a short term working group consisting of Members, SBC Officers and multi-agency representatives be formed to ensure that the statutory objectives in relation to SEV activity are properly considered. The working group met twice and their findings formed the basis of the recommendation in the report considered by Council on 27 August 2020.
- 3.4 At the meeting on 27 August 2020 Council agreed that a stage 1 consultation on whether the Council should resolve to licence SEV's should be carried out and instructed the Executive Director Finance and Regulatory Services to do so. The stage 1 consultation was carried out over a period of 12 weeks between 19 November 2020 and 14 February 2021. The responses received were overwhelmingly in favour of the Council resolving to licence SEV's and at its meeting on 25 March 2021 Council adopted a resolution to licence SEV's and instructed the preparation of a draft policy statement and to subsequently report to Council on the content of the draft prior to a stage 2 consultation.
- 3.5 At its meeting on 31 March 2022, Council considered the terms of the draft policy statement. In particular, Council considered the terms of paragraph 7 of the draft policy statement whereby provision was made that the Council, as set out in the legislation, may refuse an application if it is satisfied that the number of SEV's in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality. The draft policy statement determined that the appropriate number of SEV's permitted within all relevant authorities within the Scottish Borders area should be nil and at the meeting on 31 March 2022, Council endorsed that view, approved the draft policy statement and instructed the Executive Director Finance and

Regulatory Services to conduct a stage 2 public consultation. The stage 2 consultation was carried out over a period of 12 weeks between 16 June 2022 and 18 September 2022.

- 3.6 A total of 17 responses were received as detailed in Appendix 1. All 17 responses were in favour of the appropriate number of SEV's in the Scottish Borders area being nil and that the whole of the Scottish Borders be treated as one area for the purpose of SEV Licensing. Some of the responders made comments all as detailed in Appendix 1. Of the 17 responses received, 13 were in favour of the suggested licence conditions as set out in parts 9 and 10 of the draft policy statement with 4 not being in favour although members will note from Appendix 1 that some of the comments accompanying a "no" response indicate that there should be no SEV's. Although the draft policy statement sets the appropriate number at nil, the policy still requires to set out proposed licence conditions. In closing, the consultation sought final comments about the licensing of SEV's in the Scottish Borders and members will further note from Appendix 1 that none of the additional comments received were in favour of SEV's.

4 NEXT STEPS

- 4.1 The adoption of the terms of the draft policy statement will enable will enable officers to take the necessary steps to ensure that the licensing of SEV's becomes effective with immediate effect.

5 IMPLICATIONS

5.1 Financial

There are no costs attributed to any of the recommendations contained in this report. There are no costs associated with the publication of the policy statement as this will be published online.

5.2 Risk and Mitigations

The adoption of the draft policy statement will eliminate the current risk that an operator of an SEV could open in the Scottish Borders area without having to seek an SEV licence.

5.3 IIA

An IIA has been carried out. Both a decision to licence and a decision not to licence SEVs have the potential to create considerations for our Fairer Scotland duties. In terms of Equalities, the decision is one which has the potential to create impact in relation to the protected characteristics of Sex and of Religious Belief. It is therefore important that any groups representing those potentially impacted are made aware of this Consultation and their views be actively sought.

5.4 Sustainable Development Goals

There are no sustainable development goals arising from the proposals contained in this report.

5.5 Climate Change

There are no climate change impacts arising from the proposals contained in this report.

5.6 Rural Proofing

There are no rural proofing impacts arising from the proposals contained in this report.

5.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

5.8 Changes to Scheme of Administration or Scheme of Delegation

No changes to either the scheme of administration or the scheme of delegation are required as a result of the recommendations in this report.

6 CONSULTATION

- 6.1 The Director (Finance & Corporate Governance), the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications are being consulted and any comments will be incorporated into the final report.

Approved by

Nuala McKinlay
Chief Legal Officer

Signature

Author(s)

Name	Designation and Contact Number
Ron Kirk	Managing Solicitor – Property and Licensing

Background Papers: None

Previous Minute Reference: 27 August 2020
25 March 2021
31 March 2022

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ron Kirk can also give information on other language translations as well as providing additional copies.

Contact us at Legal & Licensing, Scottish Borders Council, Council Headquarters, Newtown St.Boswells, Melrose, TD6 0SA, 01835-825225, Legal@scotborders.gov.uk

Appendix 1

Scottish Borders Council

Sexual Entertainment Venue Licensing Policy 2022

<https://scotborders.citizenspace.com/regulatory-services/sexual-entertainment-venue-licensing-policy-2022>

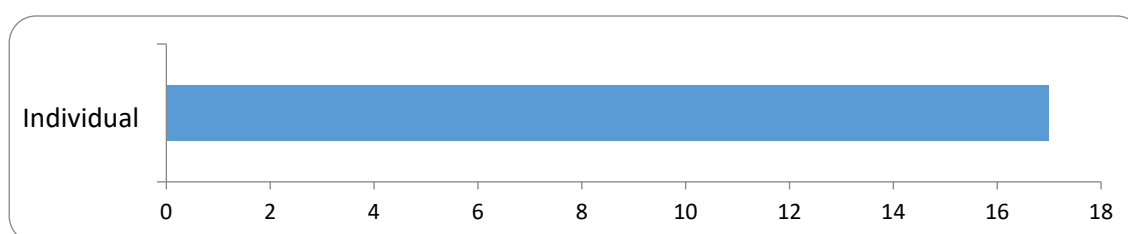
This report was created on Monday 26 September 2022 at 15:35

The activity ran from 16/06/2022 to 18/09/2022

Responses to this survey: **17**

How are you responding to this consultation?

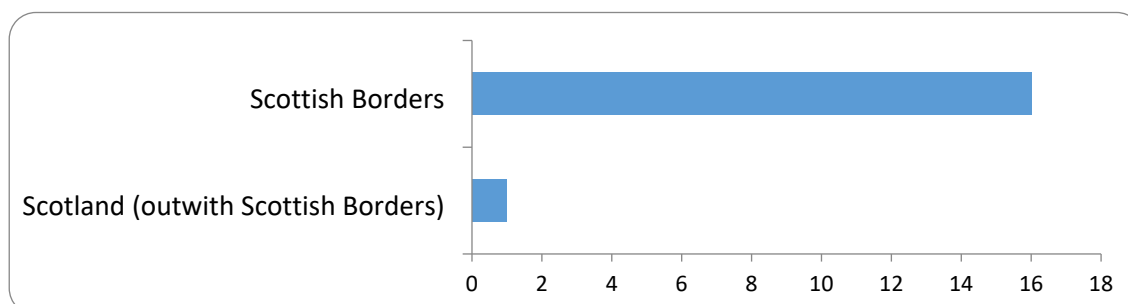
There were 17 responses to this part of the question.



Option	Total	Percent
Individual	17	100.00%
Group or Organisation	0	0.00%
Not Answered	0	0.00%

Where are you based?

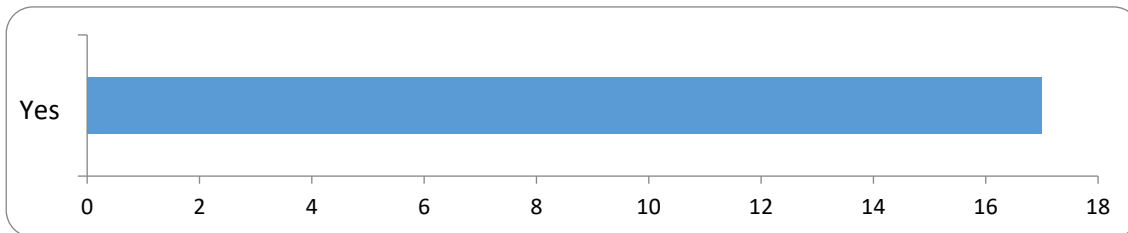
There were 17 responses to this part of the question.



Option	Total	Percent
Scottish Borders	16	94.12%
Scotland (outwith Scottish Borders)	1	5.88%
Other area	0	0.00%
Not Answered	0	0.00%

The Council is suggesting that the appropriate number of Sexual Entertainment Venue's throughout the Scottish Borders area is nil (0/ zero).

There were 17 responses to this part of the question.



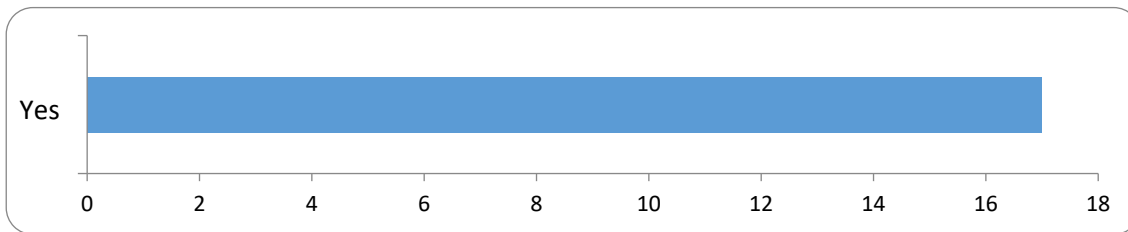
Option	Total	Percent
Yes	17	100.00%
No	0	0.00%
Not Answered	0	0.00%

Comments about nil (o/zero) venues:

From the information in the draft policy I would agree that it would not be viable without changing the character of the larger towns in the Scottish Borders. It is also unlikely to be a successful venue in smaller downs due to the population of each.
Given the low population of the Borders and access to this entertainment in larger cities, it is appropriate that the number in the Borders remains nil. Small town centres will be less attractive to a wider clientele if there are sexual entertainment venues.
I do not agree with anything that allows women or men to be degraded or sexualised. I am aware of the argument that everyone working in these venues WANTS to but that is not 100% true and people of both sexes that are vulnerable or in financially difficult situations often find this is their only option. This is exploitation and to be an active part in that on any level or to any degree is totally unacceptable.
I do not believe in the exploitation of women or men for another's self-gratification. I fear that the more vulnerable in our society maybe targeted for this work.
I totally agree with the Scottish Borders Council proposal being zero. I feel that this is for a financial gain of the organisation of these sexual entertainments venues. It creates a dangerous power dynamic against men and woman. I attracts vulnerable young woman who see this as easy way to make money which then results in the being sexual exploited.
It would put people at risk of harm, is demeaning to people, objectifying them and there are enough problems and risks to people without these such venues.
My personal opinion
SEVs promote a culture of sexism and misogyny. It is mostly men who frequent those venues and mostly women who perform. SEVs employ exploitative practices when recruiting women to perform and they do not provide any protection from exploitation or abuse. They are further linked to wider organised crime, including drugs, human trafficking and prostitution. Sexual entertainment should not be a business as it abuses women's bodies and sexuality and objectifies them.
We should not be encouraging women being seen as sexual objects.

The Council is also proposing that the whole region of the Scottish Borders be treated as one area for the purpose of Sexual Entertainment Venue licensing. This means that if zero is an adopted number no Sexual Entertainment Venues will be permitted throughout the whole region.

There were 17 responses to this part of the question.



Option	Total	Percent
Yes	17	100.00%
No	0	0.00%
Not Answered	0	0.00%

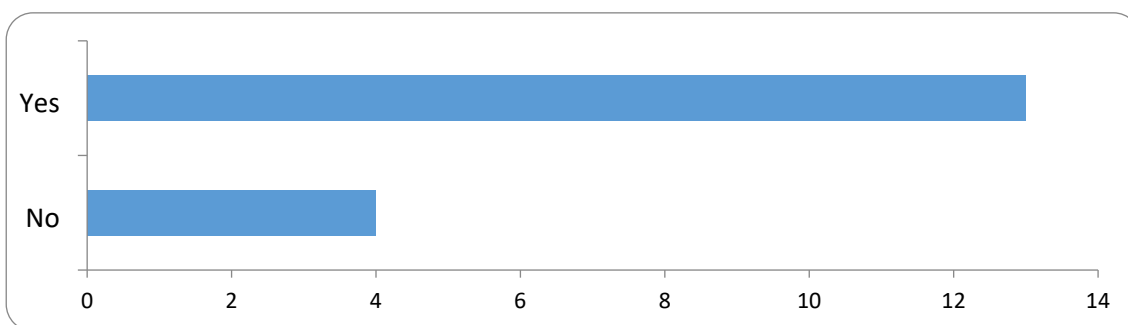
Comments about whole area:

I don't see any reason why not to treat the area as a whole
It is the sensible thing to do!
It protects the whole area.
My personal opinion
Women are more than sex objects. We do not need sexual entertainment venues.

There are suggested licence conditions in parts 9 and 10 of the draft policy statement.

agree - conditions

There were 17 responses to this part of the question.



Option	Total	Percent
Yes	13	76.47%
No	4	23.53%
Not Answered	0	0.00%

Comments about part 9 and 10 conditions:

Option	Comment
No	I do not agree with sexual entertainment venues regardless of the licensing conditions
	Really don't believe we need such venues.
	Should be no venues
Yes	The conditions in place are supportive of the safety of the workers and customers.
	Though not relevant if the total number of venues is nil.

Do you have any final comments about Sexual Entertainment Venue licensing in the Scottish Borders?

They would only cause harm.
I feel very strongly that this is not appropriate for small rural community. There are other avenues individuals with certain needs can pursue to satisfy whatever needs they have. It is not appropriate in small town to have establishments that glorify sexual exploitation, violence against women/men, and that prey on the vulnerable and financially needy individuals in our community. Young people in our communities are exposed to enough online we do not need to expose them to the idea of it in our small towns.
i would oppose any such venue being licensed through the council. The council should uphold their commitment to keep the borders safe and free from sexual exploitation - any such venue would involve the exploitation of people to varying degrees with financial gain for those doing the exploiting.
Sexual Entertainment Venues should never be allowed in Scotland.
This venues should not be considered for the Scottish Borders area.
zero tolerance.

Appendix 2

SCOTTISH BORDERS COUNCIL

Policy Statement on the Licensing of Sexual Entertainment Venues

Section 45C of the Civic Government (Scotland) Act 1982

This Statement of Licensing Policy of the Scottish Borders Council, the Licensing Authority for the Scottish Borders area was prepared in relation to the licensing of Sexual Entertainment Venues under the Civic Government (Scotland) Act 1982 as amended. Publication of the policy was approved on XXXXXXXX.

This Policy is operative from XXXXXX

Contents

1. *Definitions*
2. *Making an Application*
3. *Fees*
4. *Making Objections to Applications*
5. *Mandatory Grounds for Refusal*
6. *Discretionary Grounds for Refusal*
7. *Number of Sexual Entertainment Venues*
8. *Relevant Locality.*
9. *Licence Conditions*
10. *Standard Conditions*
11. *Duration of Licences*
12. *Waivers*

Licensing Policy Vision Statement

We want to make sure that Scottish Borders Council regulates and restricts Sexual Entertainment Venues to ensure that the Scottish Borders continues to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit.

The statutory Statement of Licensing Policy published under the Civic Government (Scotland) Act 1982 as amended sets out how the council as a Licensing Authority promotes the licensing objectives behind the Civic Government (Scotland) Act 1982 as amended relating to the provision of regulated entertainment, and the potential provision of late night refreshment.

Resolution

On 25 March 2021 the council passed a resolution in terms of Section 45B of the Civic Government (Scotland) Act 1982 as amended by The Air Weapons and Licensing (Scotland) Act 2015. The effect of passing this resolution is to require sexual entertainment venues to be licenced under the 1982

Act. A licence issued by the council may last up to 1 year and subject to these policies, may be renewed.

1. Definitions

- 1.1 “Sexual entertainment venue” means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser. Sexual entertainment” means:-
- (a) any live performance, or
 - (b) any live display of nudity, which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- For the purposes of the definition of “sexual entertainment”, “display of nudity” means:-
- (a) in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,
 - (b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.
- Sexual entertainment is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the organiser.
- References in Schedule 2 (as modified for the purposes of section 45B) to the use of any premises by a person as a sexual entertainment venue are to be read as references to their use by the organiser.
- The following are not sexual entertainment venues:-
- (a) a sex shop (within the meaning of paragraph 2(1) of Schedule 2),
 - (b) such other premises as the Scottish Ministers may by order specify.
- 1.2 This policy sets out the councils approach to the regulation of sexual entertainment – premises under the Civic Government (Scotland) Act 1982 as amended by The Air Weapons and Licensing (Scotland) Act 2015.
- 1.3 The aims and objective of this policy are therefore to promote;
- (a) Preventing crime and disorder,
 - (b) Securing public safety,
 - (c) Preventing public nuisance,
 - (d) Protecting and improving public health, and
 - (e) Protecting children and young persons from harm.
- 1.4 The council will always consider the individual circumstances of each application made under the 1982 Act. It may make exceptions to its own policies where it is appropriate to do so and it will give reasons for doing this.
- 1.5 This statement of SEV Licensing Policy does not undermine the right of any individual to apply under the terms of the 1982 Act and have any such application considered on its individual merits.

2. Making an Application

- 2.1 The SEV licensing regime will take place from xxxxxx. Under paragraph 25(3) of Schedule 2 of the 1982 Act, we as the local authority cannot consider any application for an SEV licence prior to the date specified in the resolution and cannot grant any licence until we have considered all applications received prior to that date.
- 2.2 Application forms for SEVs will be available from XXXXXX and will only be considered on or after that date.
- 2.3 The application must be in writing, and shall state the full name and address of the applicant, the date and place of birth of the applicant, where the applicant is not to be carrying on the day to day management of the SEV, the full name, address and date and place of birth of the person who is and shall be signed by the applicant or his agent under Schedule 2 of the 1982 Act.

- 2.4 The application must be in writing, giving the full address and name of applicant, the date and place of birth of the applicant or if the applicant is not a person, its name, registered or principal office address and the names and private addresses of the directors or other person responsible for its management under Paragraph 10 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Additional information may be requested as a part of the application. What is reasonable should be judged in the context of the aims of the act.
- 2.5 An applicant for the grant, renewal or transfer of a licence under this Schedule shall give public notice of the application.
- 2.6 Notice shall in all cases be given by the applicant publishing an advertisement in a local newspaper circulating in the appropriate authority's area. The licensing authority may also require the applicant to display a public notice at the proposed premises and applications will be advertised on the Council's website.
- 2.7 The publication shall not be later than 7 days after the date of the application.
- 2.8 Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
- 2.9 Every notice under this paragraph which relates to premises shall identify the premises. Every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment
- 2.10 Where an SEV is trading in the area before the resolution has been published and before the specified day of effect has applied for a SEV licence under Schedule 2 of the 1982 Act, then they may continue trading until the application is considered. If the application is refused they may continue to trade until the timescale for an appeal under paragraph 24 has lapsed or the appeal has been determined or abandoned.

3. Fees

- 3.1 The Civic Government (Scotland) Act 1982 permits the authority to set a reasonable fee as the authority shall seek to ensure that from time to time the total amount of fees receivable by the authority is sufficient to meet the expenses of the council in exercising their functions under the Act. The fees will be reviewed annually in line with a review of Licensing fees and will be incorporated within the list of Civic Government Licensing fees. The fees will not be reduced or refunded if the application is refused or the licence is granted for less than was requested.

4. Making Objections to Applications

- 4.1 An objection or representation relating to an application for the grant or renewal of a licence under this schedule shall be considered on if the objection or representation is
 - (a) In writing;
 - (b) specifies the grounds of the objection or, as the case may be, the nature of the representation;
 - (c) specifies the name and address of the person making it;
 - (d) is signed;
 - (e) was made to them within 28 days of whichever is the later or, as the case may be, latest of the following dates—
 - (i) the date of submission to them of the application;
 - (ii) the date when public advertisement was first given under paragraph 2.6 above;
 - (iii) the date, if any, specified by the local authority under paragraph 7(10) above.
- 4.2 The authority before reaching a final decision upon such an application, give the applicant and any person who has made a relevant objection or representation an opportunity to be heard by them and where they propose to do so, must within such reasonable period (not

being less than 14 days) of the date of hearing, notify the applicant and each such person of that date.

5. Mandatory Grounds for Refusal

- 5.1 Specific mandatory grounds for refusal are set out in Schedule 2 of the 1982 Act. A licence cannot be granted or renewed by the authority if:
- (a) to a person under the age of 18;
 - (b) to a person who is for the time being disqualified under paragraph 13(10) or 19(5) of the 1982 Act
 - (c) to a person other than a natural person if any director of it or partner in it or any other person responsible for its management is disqualified under paragraph 13(10) or 19(5) below of the 1982 Act;
 - (d) to a person who has been convicted of an offence under paragraphs 19 to 21 of the 1982 Act;
 - (e) to a person who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made;
 - (f) to a body corporate which is not incorporated in the United Kingdom;
 - (g) to a person who has, within the period of 12 months immediately preceding the date when the application was made, been refused by the same local authority the grant or renewal of a licence under this Schedule for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal; or
 - (h) to a person other than a natural person if any director of it or partner in it or any other person responsible for its management has, within that period, been refused by the same local authority the grant or renewal of such a licence, unless the refusal has been reversed on appeal.

Paragraph 13(10) of the 1982 Act

Where a licence under this Schedule is revoked, its holder shall be disqualified from holding or obtaining such a licence in the Scottish Borders area for a period of 12 months beginning with the date of revocation unless the revocation has been reversed on appeal.

Paragraph 19(5) of the 1982 Act

- (a) that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he/she made the application;
- (c) that the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the Scottish Borders Council consider is appropriate for that locality. Nil may be an appropriate number;
- (d) that the grant or renewal of the licence would be inappropriate, having regard—
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

6. Discretionary Grounds for Refusal

- 6.1 A licence may be refused where:
- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) if the licence were to be granted, renewed, or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application;
 - (c) the number of sexual entertainment venues in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate having regard -
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

7. Number of Sexual Entertainment Venues

- 7.1 As set out within the 1982 Act ,Schedule 2 provides that a Local Authority may refuse an application if it is satisfied that the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.
- 7.2 Sexual entertainment venues cater for a particular adult audience and by attracting those customers can affect the character of the locality in which they are situated. The council considers that localities which are characterised by particular uses, whether by residents, visitors or workers, should not include sexual entertainment venues.
- 7.3 After consultation with local residents and consideration of the geography and layout of towns and villages within the Scottish Borders area, Scottish Borders Council has determined that the appropriate number of sexual entertainment venues in the Scottish Borders is nil for all localities.
- 7.4 Towns with surrounding communities with fewer than 2,000 residents are considered too small to be able to support sexual entertainment venues. There would be too few local residents and tourists to make a sexual entertainment venue commercially viable. Furthermore, the nature of sexual entertainment venues and the impact that they and their customers can have in these localities would significantly distort the character of these communities. In these smaller communities it is extremely difficult to identify premises that are not in close proximity to the areas mentioned in the guidance to the act: residential areas, schools, including the routes to and from school regularly used by children, or places of worship. Therefore, the appropriate number of sexual entertainment venues licenced in towns and all other communities or villages in the Scottish Borders area with fewer than 2,000 residents is nil. According to data provided by the National Records of Scotland the population estimate for the following settlement areas as at 2020 was:

Tweedbank	-	1996
Coldstream	-	1887
West Linton	-	1843
Lauder	-	1837
Earlston	-	1727

Newtown St.Boswells	-	1474
Chirnside	-	1449
St.Boswells	-	1443
Darnick and Gattonside	-	910
Cardrona	-	849
Newcastleton	-	757
Walkerburn	-	714
Denholm	-	702
Stow	-	697
Greenlaw	-	604
Yetholm	-	599
Ayton	-	595
Coldingham	-	501

7.5 Larger towns with populations in excess of 2000 residents have the most potential for hosting sexual entertainment venues. The larger towns have established town centres that contain several licenced premises and, in some cases, nightclubs. Town centres would appear to be the most likely areas to establish a sexual entertainment venue. However, the town centres of the larger towns are heavily used by local residents going about their daily business and include routes to and from schools regularly used by children. In addition, the town centres are also close to places of worship and tourist attractions. The town centres are the only viable location a sexual entertainment venue could be considered but such a venue would be outwith the existing character and functions of the larger towns and would potentially reduce their appeal to visitors especially those with children. Consequently, it is considered that the number of sexual entertainment venues in the larger towns in the Scottish Borders area with more than 2000 residents is nil. According to data provided by the National Records of Scotland the population estimate for the following settlement areas as at 2020 was:

Hawick	-	13,653
Galashiels	-	12,568
Peebles	-	8,519
Kelso	-	6,833
Selkirk	-	5,435
Jedburgh	-	3,774
Eyemouth	-	3,480
Innerleithen	-	3,174
Duns	-	2,766
Melrose and Newstead	-	2,492

7.6 From time to time the Scottish Borders Council will review the appropriate number of sexual entertainment venues for their area.

7.7 With the appropriate number of sexual entertainment venue licenced premises set to nil for all relevant localities within the Scottish Borders area there is a presumption against the granting of new licences. Applicants will therefore have to demonstrate exceptional reasons as to why a licence should be granted in order to overcome this presumption. For the avoidance of doubt the council considers that responsible management and the implementation of appropriate operating policies at sexual entertainment venues are essential to ensure the promotion of the licensing aims and objectives and so being a responsible operator is a basic requirement and is not considered as exceptional.

8. Relevant Locality

- 8.1 With reference to Schedule 2 of the 1982 Act “relevant locality” means:
- (a) in relation to premises, the locality where they are situated; and
 - (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex shop.
 - (c) that the number of sex shops in the relevant locality at the time the application is made is equal to or exceeds the number which the local authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate, having regard:-
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

9. Licence Conditions

- 9.1 The council considers that responsible management and the implementation of appropriate operating policies at sexual entertainment venues are essential to ensure the promotion of the licensing aims and objectives.
- 9.2 Under the 1982 Act, the council may grant or renew a sexual entertainment venue licence on such terms and conditions and subject to such restrictions as it may specify.
- 9.3 Additionally, and notwithstanding its power to condition licences when determining their grant or renewal, the council may make regulations prescribing standard conditions applicable to licences for sexual entertainment venues, that is to say, terms, conditions and restrictions on or subject to which licences are in general to be granted, renewed or transferred by the council.
- 9.4 It will only impose such conditions as are appropriate to promote the policy aims and objectives.
- 9.5 In ensuring compliance with the sexual entertainment licence regime the council will aim to promote the policy aims and objectives.
- 9.6 Through standard conditions the council seeks to ensure that sexual entertainment venues are well managed and supervised, restrict the sexual entertainment activities and the manner in which they are permitted to be provided, protect performers, and control the impact of the venue and its customers in relation to its locality.
- 9.7 The council will prescribe, and from time to time revise, standard conditions which will apply generally to licences that the council will grant or renew.

10. Standard Conditions

Location

- 10.1 Premises should fit in with the character of the area and surrounding premises to the satisfaction of the licensing authority.
- 10.2 The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.
- 10.3 The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customers and/or transport to or from the premises is prohibited.

Appearance, displays and layout of premises

- 10.4 Copies of the licence and the conditions attached to the licence shall be clearly displayed so that every person entering the premises can see a copy of both the licence and the conditions.
- 10.5 Any charge for entering the premises shall be clearly and legibly displayed outside the premises.
- 10.6 No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or similar matter shall be displayed outside the premises without the written permission of Scottish Borders Council, except for those signs or notices that are required to be displayed by these licence conditions.
- 10.7 Price lists for both drinks and sexual entertainment and the code of conduct for customers will be clearly displayed at each table and at each entrance to the premises.
- 10.8 Price lists and the code of conduct for customers must be printed in a manner which is clear and easy to read during the normal operation of the premises.
- 10.9 The entrance to the premises shall be so designed and constructed as to prevent persons outside the premises having a view of the interior. No part of the performance shall be visible from outside the premises.
- 10.10 Any person who can be observed from outside of the premises must be properly and decently dressed. Scantily clad individuals must not exhibit in the entranceway or in the area surrounding the premises. There shall be no attempt made outside the premises to solicit people to enter.
- 10.11 All external doors (including fire-exit doors and patio doors) to the premises shall not be propped open during the course of the relevant entertainment.
- 10.12 All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
- 10.13 No window shall contain any sign, advertising material, goods or display likely to cause an offence to persons passing the window. This includes any advertising material, photographs or other images that indicate and suggest that erotic dancing takes place on the premises and which may be offensive.
- 10.14 Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sex establishment.
- 10.15 The premises shall be maintained in good repair and condition. All parts of the Premises shall be kept in a clean and hygienic condition to the satisfaction of the Council.
- 10.16 Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked "staff only" or by some other sign that deters the public from using such doors or openings.
- 10.17 The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 10.18 The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the establishment who are disabled.
- 10.19 All exhibits, displays, demonstrations and like activities must be open and available to all customers at no charge other than any initial entrance fee to the establishment and there shall be no individual cubicles or rooms designed to accommodate individual persons or groups of persons where exclusive demonstrations, displays, exhibits or similar activities may take place, unless authorisation/consent is first granted by the Council.
- 10.20 The authorised entertainment must only take place in designated areas approved by the Council;
- 10.21 Suitable changing rooms with restricted access should be provided for performers, separate from customers and other staff, where they may prepare for their performance;
- 10.22 Safe and controlled access to the dressing room for performers must be maintained at all times when the performance is taking place and immediately afterwards;
- 10.23 The agreed activities will take place only in designated areas as indicated on the plans authorised by the Licensing Authority and in the full view of the audience. No part of the premises accessible to the audience shall be concealed from observation without the appropriate authorisation from the Licensing Authority.

- 10.24 No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
- 10.25 No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.

Opening times

- 10.26 Except with the previous consent of the Council a sexual entertainment venue shall not be open to the public before 22:00 hours and shall not be kept open after 03:00 hours. Opening hours may be aligned to alcohol licensing hours.
- 10.27 Except with the previous consent of the Council a sexual entertainment venue shall not be open on Sundays, Good Friday and Christmas Day.

Control of entry

- 10.28 No person under 18 years of age shall be admitted on the premises.
- 10.29 The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as driving licence or passport.
- 10.30 Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
- 10.31 A policy of random searches of persons entering the premises shall be operated.
- 10.32 Any person found to be in possession of illegal drugs upon entry shall be prevented entry and, where possible, restrained until the Police can take such person into custody. Any persons found using illegal drugs on the premises shall be removed from the premises or, where possible, restrained until the Police can take such person into custody.
- 10.33 The premises shall maintain a refusals log whereby on any occasion a person is refused entry details shall be recorded. The log must be made available on request by Police Scotland or an authorised officer of the Council.
- 10.34 No tickets shall be sold and no admission money taken in a place to which members of the public, other than permitted customers of the Sex Establishment, have access.
- 10.35 A minimum of two Door Supervisors registered with the Security Industry Authority must be on duty at all times the premises are operating with adult entertainment.
- 10.36 Door Supervisors shall continually monitor all entrances, exits and toilets.
- 10.37 The Door Supervisor register shall be made available to Police Officers or authorised officers of the Council on request.
- 10.38 The Designated Premises Supervisor shall, as soon as is reasonably practicable within 72 hours, notify the Security Industry Authority of any door supervisors dismissed for serious misconduct which might reasonably affect the continuation of such registration.

Conduct of performers

- 10.39 No person under 18 years of age shall be admitted on the premises.
- 10.40 Dancers will only perform on the stage area or when providing a private dance.
- 10.41 Dancers will only be present in the licenced area in a state of nudity when they are performing on stage or providing a private dance.
- 10.42 Relevant entertainment will only be performed by the dancer. There must be no audience participation.
- 10.43 There must be no physical contact between dancers.
- 10.44 There must be no physical contact between the dancer and the customer at any time.
- 10.45 Any performance will be restricted to dancing and the removal of clothes. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.

- 10.46 Sex toys must not be used and penetration of the genital area by any means must not take place.
- 10.47 Customers must remain seated for the duration of the performance.
- 10.48 Customers will not be permitted to throw money at the dancers.
- 10.49 Patrons or members of the audience shall not take photographs or record digital images of performers by any means.
- 10.50 All booths and VIP areas used for private dances must be visible to supervision and must not have closing doors, curtains or coverings of any description.
- 10.51 All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
- 10.52 Any person on the premises who can be observed from outside the premises will be properly and decently dressed.
- 10.53 The licensee will ensure dancers have secure dressing rooms, facilities to secure valuables and proper sanitation facilities available to them.
- 10.54 The practice of filming is prohibited.
- 10.55 Exit routes for performers must be kept clear.

Protection of performers and prevention of crime (including safety of public and performers)

- 10.56 There shall be a written code of conduct for performers. All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the police or an authorised officer of the Council. The code shall include the following:
 - (a) The licence conditions relating to performances of sexual entertainment.
 - (b) House rules.
 - (c) Internal disciplinary procedure and details of any financial penalties that may be imposed. This should include a system to ensure that performers suffering a genuine sickness or domestic emergency are not made subject to unfair punitive financial penalties.
 - (d) Drugs monitoring.
 - (e) No contact with customers outside the club.
 - (f) The arrangements for breaks and smoking facilities provided.
 - (g) Copies of approved forms of ID supplied by each performer i.e. passport, photo card driving licence or PASS card.
- 10.57 Performers shall be provided with secure and private changing facilities
- 10.58 Means to secure personal property shall be provided for the performers
- 10.59 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area. If no smoking area is provided a maximum of 3 performers may be permitted to take a break at any one time.
- 10.60 The licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work
- 10.61 All fees and charges for performers shall be stated in writing and prominently displayed in the changing area.
- 10.62 The Licensee shall take all reasonable precautions for the safety of the public and employees.
- 10.63 There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place and one member of security staff at the entrance to the premises, at all times the premises is open to the public.
- 10.64 The Licensee shall comply with any fire prevention and safety measures that may be required by the Scottish Fire and Rescue Service and shall maintain and keep available for use all specified fire-fighting equipment and extinguishers.

Management

- 10.65 Before a dancer is permitted to work on the premises the licensee will ensure that the dancer:
- (a) has not been convicted of theft, drug offences or prostitution,
 - (b) has the right to work in the UK.
- 10.66 The licensee will keep records of the checks, including copies of any documentation such as a basic disclosure, passport, visa, driving licence or national insurance number provided by the dancer.
- 10.67 All premises that provide relevant entertainment will be expected to provide new dancers with a pack of information. This pack will include:
- (a) A copy of the sexual entertainment venue licence, including the conditions applied by the Licensing Committee,
 - (b) Details of any other conditions applied by management of the premises,
 - (c) Details of how to report crime to the relevant authority,
 - (d) Details of the premises public liability insurance,
 - (e) Information on how dancers can obtain personal liability insurance,
 - (f) Details of unions, trade organisations or other bodies that represent the interests of dancers,
 - (g) Details of local women's specialist support services and how to access them,
 - (h) Instructions on the use of mobile phone apps re personal safety
 - (i) A copy of the code of conduct for dancers,
 - (j) A copy of the code of conduct for customers, and
 - (k) Price lists for drinks and sexual entertainment.
- 10.68 The information provided in the pack will be provided in the dressing rooms or a sign will be placed in the dressing room advising the pack is available on request.
- 10.69 All performers who engage in an evening of work at the premises shall sign a document to confirm the start and finish time of the shift. The document should be dated and contain the performer's true name as well as the stage name. These records shall be kept for a minimum period of six months and shall be produced on request by an authorised officer.
- 10.70 Employment records for performers and staff shall be kept for a minimum of six months following the cessation of their employment.
- 10.71 Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council.

Maintenance and repair

- 10.72 The licence holder shall maintain the licenced premises in good order, repair and state of cleanliness at all times.
- 10.73 Should an authorised officer take issue with the condition of any parts of the premises internal or external, notice will be given in writing and must be rectified within a period of 28days from the date of the notice. Any appeal against such notice must be made in writing to the licensing service within 14days of issue. The appeal will be determined by the Public Protection Sub Committee.
- 10.74 The licence holder shall take appropriate measures to ensure that refuse from the premises are kept secure from public accessibility pending removal from site.
- 10.75 The licence holder shall comply with any fire prevention and safety measures that may be required by the Fire Authority or suitably competent local authority officer.

CCTV

- 10.76 The CCTV system must comply with: British Standard 7958:2015 - Closed circuit television (CCTV). Management and operation. Code of practice.

- 10.77 Where CCTV system incorporates a digital recording function, it must also comply with: BS EN 62676-4:2015 - Video surveillance systems for use in security applications. Application guidelines.
- 10.78 The designated premises manager (as specified in any licence in force for the premises granted under the Licensing (S) Act 2005)/premises owner must maintain an annual registration with the Information Commissioner's Office - as stipulated under the Data Protection Act 2018.
- 10.79 At all times, the CCTV system and recordings must be kept in a secured environment under the control of the designated premises manager (as specified in any licence in force for the premises granted under the Licensing (S) Act 2005) or other nominated responsible named individual. Also a full instruction manual for the CCTV system must be available to the Police and other Responsible Authorities.
- 10.80 The CCTV system must be maintained in good working order to:
- (a) Operate on 'real-time' at a minimum rate of 20 frames-per-second, with constant, correct time/date generation.
 - (b) Have a recording capability capable of providing individual pictures.
 - (c) Provide clean, clear and unobstructed camera views of evidential quality in all lighting conditions.
 - (d) Provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially and kept for a period of 31 days and handed to the Police on request.
 - (e) Export footage to a removable storage medium with a time and date integral to the image – where possible, to also include any software needed to replay the footage.
 - (f) Ensure exported footage at the same, or similar quality to that recorded on the system recording.
- 10.81 During all periods of licensable activity a nominated and trained 'CCTV Operator' must be on duty, who is competent in the operation of the CCTV equipment in order to:
- (a) inspect the CCTV system on a daily basis, and ensure that all cameras are in full working order.
 - (b) record each inspection on a 'CCTV maintenance' log sheet, and endorse with their signature.
 - (c) facilitate the downloading CCTV footage.
- 10.82 During all periods of non-licensable activity, a 'CCTV Operator' must be contactable by the police on a designated emergency-only telephone number. This number must be registered with the local police licensing officer.
- 10.83 The CCTV system must:
- (a) Incorporate at least one camera on every entrance and exit to the premises - individuals must identifiable.
 - (b) Incorporate at least one camera on all areas where the sale/supply of alcohol occurs - individuals must identifiable.
 - (c) Incorporate at least one camera on any potential queue area external to the premises, and car parking area within the boundary of the premises - individuals must be identifiable.
 - (d) Ensure that all other cameras at the premises allow for individuals to be recognisable.
 - (e) Incorporate a dedicated CCTV camera for each booth – individuals must be clearly identifiable.
- 10.84 In the event of a technical failure of the CCTV system, the nominated CCTV Operator will ensure the matter is reported to the Scottish Borders Council Licensing Team within 24 hours.
- 10.85 A camera which records a facial picture of customers entering the premises shall be situated at the reception and a monitor situated there so customers entering can see same.
- 10.86 CCTV shall cover all public areas of the premises including all areas where performances of sexual entertainment are conducted.

Enforcement

- 10.87 Inspection and enforcement will be based on the principles of risk assessment, having a graduated response and targeting problem premises. Inspections will not be undertaken routinely. Enforcement of the legislation will be objective and transparent.
- 10.88 An intelligence led approach will be adopted and information regarding incidents of violent crime, disorder and nuisance in and around licenced premises will be collated to provide a risk assessment basis for inspection and, where appropriate, surveillance, with high-risk operations receiving more attention than premises carrying low public safety/nuisance risks.
- 10.89 The Scottish Borders Licensing Authority may take appropriate enforcement action against those responsible for unlicenced premises/activity.
- 10.90 Any complaints received by the council about unlicenced activity or the way licenced premises may be operating will be dealt with in accordance with the council's relevant policies and may result in an adjustment to the risk rating, prompting more frequent visits. We will work with businesses in an attempt to resolve issues that are of concern.
- 10.91 Following a hearing, the Licensing Committee may attach further conditions to a licence, considered necessary and proportionate in the public interest including, but not limited to, the interest of public policy, public security, public health or the protection of the environment. This could include conditions restricting the opening and closing times of the premises.

Staff Training

- 10.92 Staff must be trained appropriately to ensure compliance with all policies, procedures and conditions.

11. Duration of Licences

- 11.1 Unless a shorter period is specifically stated, all licences will be granted for one year, which shall be the maximum duration of any licence.

12. Waivers

- 12.1 A waiver may be applied for. An application has to be made in writing. The Authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate in accordance with Schedule 2 of the 1982 act.

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INTERIM SCHEME OF ADMINISTRATION: PROPOSED CHANGES

Report by Acting Chief Executive

SCOTTISH BORDERS COUNCIL

27 October 2022

1 PURPOSE AND SUMMARY

- 1.1 This reports seeks approval for changes to the membership of the Executive Committee.**
- 1.2 The membership of the Executive Committee was specifically considered at two meetings of the Members' Cross Party Working Group: Scheme of Administration. A number of different views were presented but there was agreement that the membership of the Committee should be increased to reflect the whole concept of Members from across the political spectrum working together in a collegiate way. The current two members of the Executive Committee from out-with the Administration have allowed an expression of ideas, challenges and a different political perspective being brought to decision making. It is therefore proposed to increase this and that a further two members from out-with the Administration are added to the membership of the Executive Committee. The membership of the Committee would be reviewed after one year, or should issues arise impacting on the working of the Committee, at an earlier time.

2 RECOMMENDATIONS

- 2.1 **It is recommended that Scottish Borders Council agrees:-**
 - (a) to extend the membership of the Executive Committee to a total of seventeen members, to include a further two members from out-with the Administration, and amend the Interim Scheme of Administration accordingly;**
 - (b) to appoint two members from out-with the Administration to the Executive Committee; and**
 - (c) that the membership of the Executive Committee would be reviewed after a year, or should issues arise impacting on the working of the Committee, at an earlier time.**

3 BACKGROUND

- 3.1 At its meeting on 25 August 2022, Scottish Borders Council agreed a number of changes to the Interim Scheme of Administration, highlighting the need to keep the Scheme under continual review.
- 3.2 The Members' Cross Party Group: Scheme of Administration has met twice in September to discuss the membership of the Executive Committee.
- 3.3 At its meeting on 17 June 2022, the Sustainable Development Committee members discussed the role of the Committee and requested that the functions delegated be changed to reflect a wider remit not focussed solely on climate change and the name of the Committee be changed to take account of this.

4 EXECUTIVE COMMITTEE

- 4.1 The membership of the Executive Committee was specifically considered at two meetings of the Members' Cross Party Working Group: Scheme of Administration. A number of different views were presented but there was agreement that the membership of the Committee should be increased to reflect the whole concept of Members from across the political spectrum working together in a collegiate way. However, it was also important that the Executive Committee did not become too large or unwieldy or become a "second" Council. Consideration was given to rotating Portfolio holders so they did not attend every meeting but could prove problematic, given that reports could be brought to any Executive Committee on any subject matter.
- 4.2 The current two members of the Executive Committee from out-with the Administration have allowed an expression of ideas, challenges and a different political perspective being brought to decision making. It is therefore proposed to increase this and that a further two members from out-with the Administration are added to the membership of the Executive Committee. The membership of the Committee would be reviewed after one year, or should issues arise impacting on the working of the Committee, at an earlier time.

5 IMPLICATIONS

5.1 Financial

There are no costs attached to any of the recommendations contained in this report.

5.2 Risk and Mitigations

By increasing the number of members of the Executive Committee from out-with the Administration, the Council can demonstrate a willingness to work in a collegiate way, and bring a wider expression of ideas, challenges and a different political perspective to decision making.

5.3 Integrated Impact Assessment

No Integrated Impact Assessment has been undertaken but it is not thought likely that increasing the membership of the Executive Committee will have

a negative impact on the Council’s statutory obligation to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a characteristic (age, disability, gender re-assignment, trans/transgender identity, marriage or civil partnership, pregnancy and maternity, race groups, religion or belief, sex-gender identity, and sexual orientation) and those who do not; and foster good relations between people who share a characteristic and those who do not.

5.4 **Sustainable Development Goals**

The proposals in this report will have no impact on the UN Sustainable Development Goals.

5.5 **Climate Change**

By increasing the size of the Executive Committee, there may be a slight impact on climate change due to increased travel should Elected Members choose to travel to meetings in person, rather than attend online.

5.6 **Rural Proofing**

The work of the Executive Committee covers all areas within the Scottish Borders including those living, working and visiting its rural areas.

5.7 **Data Protection Impact Statement**

There are no personal data implications arising from the proposals contained in this report.

5.8 **Changes to Scheme of Administration or Scheme of Delegation**

Changes are required to the Scheme of Administration and these are contained within the recommendations in this report.

7 **CONSULTATION**

7.1 *The Acting Chief Financial Officer, the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), and Corporate Communications are being consulted and any comments received will be reported at the meeting.*

Approved by

David Robertson

Acting Chief Executive

Author(s)

Name	Designation and Contact Number
Jenny Wilkinson	Clerk to the Council Tel: 01835 825004

Background Papers: Nil

Previous Minute Reference: Scottish Borders Council, 25 August 2022

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PUBLIC QUESTIONS AT MEETINGS OF SCOTTISH BORDERS COUNCIL

Report by Acting Chief Executive

SCOTTISH BORDERS COUNCIL

27 October 2022

1 PURPOSE AND SUMMARY

- 1.1 This report seeks approval for a process to allow members of the public to submit questions to be answered at meetings of Scottish Borders Council.**
- 1.2 It was agreed at the August Council meeting that a further report be considered at the next Council meeting with details of how the submission of questions from members of the public to full Council meetings could work. At its meeting held on 23 September 2022, the Members' Cross Party Working Group: Scheme of Administration, considered a draft procedure, template and contact form. Details of the draft procedure are given in Appendix 1 to this report. The question template and contact details form are given in Appendices 2 and 3 respectively.
- 1.3 It is hoped that by including an item on the Council agenda for questions from members of the public, this will be another avenue for public engagement with the Council. It will also be complementary to the Open Questions item for Elected Members which is included in each Council agenda.

2 RECOMMENDATIONS

- 2.1 It is recommended that Scottish Borders Council agrees:-**
 - (a) to approve the procedure for Questions from the Public at Council meetings, as detailed in Appendix 1;**
 - (b) to approve the template for the submission of questions from the public, as detailed in Appendix 2;**
 - (c) to approve the contact details form to accompany any question submitted by a member of the public, as detailed in Appendix 3;**
 - (d) to delegate authority to the Clerk to the Council to make the necessary changes to the Scheme of Administration; and**

- (e) that the submission of questions by members of the public for Council is reviewed after one year, to ascertain the benefits and consider whether such a process should continue.**

3 BACKGROUND

3.1 At its meeting on 25 August 2022, Scottish Borders Council considered a report on initial changes to the Scheme of Administration and subsequent changes to Standing Orders. Part of the report also referred to consideration by the Members' Cross Party Working Group: Scheme of Administration of direct public engagement at Council meetings. At the moment, Elected Members submit questions to Executive members for response at these meetings and the Group discussed whether members of the public should also be able to submit questions in a similar way. This could be a way forward and a different approach but it would need to be a controlled process, with criteria for questions and limits to the number of public questions at each meeting. It was therefore agreed at the August Council meeting that a further report be considered at the next Council meeting with details of how this process could work.

4 QUESTIONS FROM THE MEMBERS OF THE PUBLIC

4.1 At its meeting held on 23 September 2022, the Members' Cross Party Working Group: Scheme of Administration, considered a draft procedure, template and contact form for members of the public submitting questions to be answered at Council meetings. In terms of procedure, each question (maximum of 150 words) needs to be submitted separately on the template form and there are a number of exclusions of the type of question that can be accepted. It is proposed that a maximum of 5 questions from the public would be asked at any one Council meeting, with the responses read out by the relevant Portfolio holders. The member of the public asking the question is not entitled to speak at the meeting and is not entitled to ask any supplementary question regarding the response. Further, no Councillor may ask a supplementary question to a response given to a question from a member of the public. Details of the draft procedure are given in Appendix 1 to this report. The question template and contact details form are given in Appendices 2 and 3 respectively.

4.2 In their consideration of this matter, the Working Group added in to the process:

- Disproportionate cost would be added as another exclusion
- The answer to a question from the public could not form a final decision of a course of action agreed by Council e.g. any response which would result in changes to policy, budget or service provision could not be considered a final decision until a report with full costs and implications was considered at a Council or other committee meeting
- No reference should be made to political parties, Administration or Opposition in questions or responses
- No question will be answered where an FOI request has been made at the same time
- A privacy notice would be added to the template and form so the public knew their name and town would be made public in the papers being presented to Council
- Verification would be sought on someone's identity to stop any questions being submitted from a false source

- The Convener and Leader would be consulted on any question which did not meet the criteria and was being rejected
- 4.3 It is hoped that by including an item on the Council agenda for questions from members of the public, this will be another avenue for public engagement with the Council. It will also be complementary to the Open Questions item for Elected Members which is included in each Council agenda. It is further proposed that a review of the submission of questions from the public to Council is carried out after one year, to ascertain the benefits and consider whether this process should continue. The functions of Council in the Scheme of Administration will require to be amended to allow questions from the public to be considered.

5 IMPLICATIONS

5.1 Financial

There are no costs attached to any of the recommendations contained in this report.

5.2 Risk and Mitigations

There is a reputational risk to the Council if it does not continue to review how it engages with the public and Border communities. By adding questions from the public to the agendas for Council meetings, this gives another avenue for the public to seek answers from the Council.

5.3 Integrated Impact Assessment

No Integrated Impact Assessment has been carried out on the Interim Scheme of Administration although it is anticipated that there are no adverse equality issues. Any member of the public resident in the Scottish Borders may submit a question to Council.

5.4 Sustainable Development Goals

It is anticipated that the introduction of questions from the public at Council meetings may assist in UN Goal No. 16 "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels" by becoming more responsive to communities and increase public access to information.

5.5 Climate Change

There is no impact on Climate Change from the proposals in this report.

5.6 Rural Proofing

There is no specific impact on the rural area from the proposals contained in this report.

5.7 Data Protection Impact Statement

The contact form for the submission of questions to Council includes a privacy statement. The individual's name and town will be published as part of the Council papers but no other information will be released. The personal details on the contact form will only be used in relation to the public questions at Council procedure. A Data Protection Impact Assessment has not been carried out.

5.8 Changes to Scheme of Administration or Scheme of Delegation

A change is required to the Scheme of Administration to include the responses to questions from the public in the functions of Council, which is included in the recommendations in this report.

6 CONSULTATION

6.1 *The Acting Chief Financial Officer, the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), and Corporate Communications are being consulted on and any comments received will be reported at the meeting.*

Approved by

David Robertson

Acting Chief Executive

Author(s)

Name	Designation and Contact Number
Jenny Wilkinson	Clerk to the Council, Tel: 01835 825004

Background Papers: Nil

Previous Minute Reference: Scottish Borders Council, 25 August 2022

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Scottish Borders Council Public Questions Draft Procedure

Scottish Borders Council has opened up a further route for members of the public to submit questions to be asked at meetings of full Council. This process is complementary to requests for information submitted under Freedom of Information legislation.

Questions

1. Questions should raise issues which relate to matters within the responsibility of Scottish Borders Council or the general well-being of the residents of the Scottish Borders.
2. Each question should be on a separate form and each question should be limited to 150 words. A separate form will need to be submitted with the name, address and contact details of the person submitting the question (this form will not be published). Questions from an anonymous source will not be accepted.
3. Questions may only be submitted by someone who is resident in the Scottish Borders or who is acting on behalf of an individual resident in the Scottish Borders.
4. Where there are already regulatory procedures in place or the matter relates to individuals, then it would not be appropriate to accept such questions, therefore questions shall not be accepted:
 - (i) about individual planning, licensing, or other applications/decisions where there are already regulatory procedures in place;
 - (ii) about personal or external business issues;
 - (iii) about commercially sensitive or confidential material;
 - (iv) about individual Councillors, members of Council staff, or other individuals who may easily be identified;
 - (v) about employees' terms and conditions of employment;
 - (vi) about information which is protected by an interdict or court order;
 - (vii) about an allegation that someone has broken the law;
 - (viii) which contain language which is defamatory, offensive, provocative or otherwise inappropriate;

- (ix) which relate to a complaint or grievance (which should be handled through the Council's complaints procedure);
 - (x) which are identical or similar to other questions made within the preceding six months.
5. The Clerk to the Council, or her representative, shall ensure questions keep to procedures and are admissible. Questions which are the same, or substantially similar, shall be considered together.
 6. A maximum of 5 questions will be asked at any given Council meeting. Where more than 5 questions are submitted, these will either be held over to the next meeting or will be answered directly and not included in Council papers.

Meetings of the Council

7. An item will be placed on the agenda for the Council meeting and the question(s) being asked will be listed.
8. The relevant Portfolio holder will provide a response to the question which will be read out at the meeting. After the meeting, this response will be sent out to the member of the public asking the question and included in the Minute of the meeting.
9. The member of the public asking the question is not entitled to speak at the meeting and is not entitled to ask any supplementary question regarding the answer. No Councillor may ask a supplementary question regarding the answer.
10. There will be no right of appeal in response to the answer made in response to a question.



**QUESTION FROM MEMBER OF THE PUBLIC FOR
COUNCIL MEETING ON
DATE:**

(To be submitted to the Clerk to the Council no later than 15 days before the date of the Council meeting.)

PLEASE NOTE: ONLY ONE QUESTION PER SHEET

QUESTION FROM: NAME TOWN

Please note that by submitting this form, you are giving permission for your name and the town where you live to be published as part of the papers being considered by Council.

QUESTION (no more than 150 words)

REPLY TO QUESTION - to be provided by Committee Services following the relevant Council meeting

Form received by Clerk to the Council

Date

Time

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Public Questions – contact details

If you wish to submit a question for response at meetings of Scottish Borders Council, please complete the form below, along with the template for the question. No question will be accepted from an anonymous source or without this contact form. Any member of the public submitting a question must be a resident of the Scottish Borders, unless they are submitting a question on behalf of a resident, in which case they may be from out-with the Scottish Borders, but must have the permission of the resident. This form will not be published and the information held will only be used as part of the process for submitting questions to Council, but your name and town will be published in the papers for the Council meeting.

Section 1

Details of Member of the Public submitting a question	
Please enter the name and contact details of the person asking the question. <i>If you are asking the question on behalf of someone else who is a resident of the Scottish Borders, you must include their details in Section 2.</i>	
Name:	
Address:	
Postcode:	
Telephone no:	
Email:	

Section 2

Only complete this part of the form, if you are submitting a question on behalf of a resident of the Scottish Borders Council area:

Name on whose behalf you are submitting the question:	
Their Address:	
Postcode:	

Telephone no:	
Email:	

Question Please give the subject of the question.

Data Protection Statement:

Please note that the information provided by you will be held in accordance with the provisions of the UKGDPR and the Data Protection Act 2018. We shall comply with the provisions of the Act when processing the personal information provided by you on this form. We will not use the personal information provided by you for any other purpose than that set out above.

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