

SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells and Microsoft Teams on Thursday, 24th November, 2022 at 10.00 am

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

Apologies:- Councillors J. Cox and A. Orr

In Attendance:- Acting Chief Executive, Director Lifelong Learning, Director Infrastructure and Environment, Director People Performance and Change, Director Social Work and Practice, Director Strategic Commissioning and Partnerships, Acting Chief Financial Officer, Chief Officer Health and Social Care, Interim Chief Corporate Governance Officer, Clerk to the Council.

1. **CONVENER'S REMARKS.**

The Convener congratulated the following:-

(a) Jon and Anna, who were present at the meeting, from Laughing Ducks Soft Play in Coldstream which had recently won the award for the best soft play area in Scotland at the 2022 Scotland Business Awards in Glasgow;

(b) Wilton Lodge Park Gardens, which had won Green Flag Awards. The volunteers had won team of the year, and Lisa Brydon, Volunteer Co-ordinator, had been named employee of the year; and

(c) Wheatlands House in Galashiels, which had received a Scottish Social Services Award for outstanding residential care.

DECISION

AGREED that congratulations be passed to all concerned.

2. **MINUTE**

The Minute of the Meeting held on 27 October 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:-

William Hill Trust	23 August 2022
Hawick Common Good Fund	25 August 2022
Berwickshire Area Partnership	1 September 2022
Community Planning Strategic Board	8 September 2022
Eildon Area Partnership	8 September 2022
Audit	12 September 2022
Hawick Common Good Fund	12 September 2022
Teviot & Liddesdale Area Partnership	13 September 2022
Chambers Institution Trust	14 September 2022
Cheviot Area Partnership	28 September 2022
Cheviot Area Partnership	10 October 2022

DECISION

APPROVED the Minutes listed above.

4. **ADMINISTRATION POLICY PLAN**

There had been circulated copies of the Administration Policy Plan 2022-2027 which set out the aims of the Administration for the next 5 years. The Leader presented the Plan and highlighted the main areas. Members discussed the delivery of the Plan and the Leader advised the document set out the direction of travel but annual updates on progress would be provided.

DECISION

NOTED.

DECLARATION OF INTEREST

Councillor Rowley had declared an interest in the above item of business in terms of Section 5 of the Councillors Code of Conduct and did not join the meeting until after it had been considered.

5. **SCOTTISH BORDERS COUNCIL FINAL REPORTS AND ACCOUNTS 2021/22**

There had been circulated copies of a report by Audit Scotland, the Council's Auditors, together with a report by the Acting Chief Financial Officer (CFO), and a copy of the Annual Accounts 2021/22. The CFO report explained that the audit appointment of Audit Scotland for Scottish Borders Council (SBC) accounts included the requirement to provide an auditor's report for the Council as well as related charities. KPMG had continued to provide the external audit of the Council subsidiary Bridge Homes. 2021/22 represented the sixth year of Audit Scotland undertaking the External Audit of the Council's Annual Accounts with the process now completed. Audit Scotland had prepared the Annual Audit Report and had provided an unqualified independent audit opinion. Audit Scotland identified two recommendations for improvement requiring action along with follow-ups to prior year recommendations. These had been accepted by management and would be enacted within the agreed timescales. As required under the Local Authority Accounts (Scotland) Regulations 2014, the audited Annual Accounts for Scottish Borders Council, SBC Common Good Funds, the SBC Charitable Trusts, Bridge Homes LLP, Lowood Tweedbank Ltd and Scottish Borders Council's Pension Fund had been presented to and considered by the Audit Committee on 23 November 2022. The Audit Committee had agreed to recommend approval of the various accounts to Council. KPMG had concluded their audit of Bridge Homes LLP and had raised no issues or matters to report. Councillor Thornton-Nicol, Chair of the Audit Committee, commented on the fact that the accounts had been unmodified and were unqualified which was the gold standard. She thanked the

Audit Committee, including the 2 new external members, for their consideration of the accounts. Councillor Rowley thanked the Acting Chief Financial Officer, her team and officers across the Council for their work on the accounts. Councillor Mountford commented on the reports on the Pension Fund which highlighted good practice and thanked the Pension Fund Committee for their oversight.

DECISION

AGREED to approve the following audited accounts:-

- (a) the Scottish Borders Council's audited Annual Accounts for the year to 31 March 2022;**
- (b) the Scottish Borders Council's Pension Fund audited Annual Accounts for the year to 31 March 2022;**
- (c) the Scottish Borders Council Common Good Funds (Charity SC031538) audited Annual Accounts for the year to 31 March 2022;**
- (d) the SBC Welfare Trust (Charity SC044765) audited Annual Accounts for the year to 31 March 2022;**
- (e) the SBC Education Trust (Charity SC044762) audited Annual Accounts for the year to 31 March 2022;**
- (f) the SBC Community Enhancement Trust (Charity SC044764) audited Annual Accounts for the year to 31 March 2022;**
- (g) the SBC Ormiston Trust for Institute (Charity SC019162) audited Annual Accounts for the year to 31 March 2022;**
- (h) the Scottish Borders Council Charitable Trusts (Charity SC043896) audited Annual Accounts for the year to 31 March 2022;**
- (i) the Bridge Homes LLP audited Annual Accounts for the year to 31 March 2022; and**
- (j) Lowood Tweedbank Ltd Annual Accounts for the year to 31 March 2022.**

6. ANNUAL TREASURY MANAGEMENT REPORT 2021/22

There had been circulated copies of a report by the Acting Chief Financial Officer presenting the annual treasury management activities undertaken during the 2021/22 financial year. The report explained that the CIPFA Code of Practice on Treasury Management in the Public Services (the Code) required an annual report on treasury management to be submitted to Council following the end of each financial year. The report highlighted the Council's treasury activity undertaken in the year ended 31 March 2022 and the performance of the Treasury function. Appendix 1 to the report detailed the annual report of treasury management activities for 2021/22 and contained an analysis of performance against targets set in relation to Prudential and Treasury Management Indicators. The performance comparisons reported were based on the revised indicators agreed as part of the mid-year report approved on 16 December 2021. The Appendix showed the Council's borrowing requirement to fund the capital investment undertaken during 2021/22, how much the Council actually borrowed against the sums budgeted, and the level of external debt within approved limits. During the year the Council had again, where possible, deferred borrowing using surplus cash rather than undertaking new borrowing. However, in March 2022, the Council did proactively undertake long term borrowing of £20m towards the financing of the capital program before interest rates were increased by the Bank of England, saving £3.94m over the life of the loan on a

comparable basis to 2 November 2022 rates. Treasury management activity for the year had been undertaken in compliance with approved policy and the Code. The Council remained under-borrowed against its Capital Financing Requirement (CFR) at 31 March 2022. Members commended the foresight of the £20m borrowing and the saving for the Council.

DECISION

NOTED that treasury management activity in the year to 31 March 2022 had been carried out in compliance with the approved Treasury Management Strategy and Policy as detailed in the report and in Appendix 1 to the report.

7. DAY SERVICES PROVISION IN TEVIOT & LIDDESDALE

With reference to paragraph 6 of the Minute of 27 October 2022, the Chief Officer Health and Social Care gave an update on progress with regard to Day Service Provision in Teviot and Liddesdale. He confirmed that the matter had been discussed at the Health and Social Care Integrated Joint Board and they had acknowledged the need for a building based service and had also apologised to Service Users. A Task Group had been formed which included a number of relevant professionals and representatives of user groups. A further carer representative was also to be added to this Group. The Integrated Impact Assessment (IIA) had now been completed and potential service users were being identified from various sources. Best practice for building based services was also being looked at and a market testing exercise would be carried out to see if other organisation would partner with the Council on the provision of a service. In response to a question, Mr Myers agreed to share the IIA with Councillors. Although progress was being made as quickly as possible, it was noted that achieving registration for the service could take up to 6 months although the Care Inspectorate had been alerted to the situation and had also been asked if they wished to be represented on the Task Group. It was intended to bring back a report to Council in February 2023 with a further update.

DECISION

NOTED the update.

8. CLIMATE CHANGE: COUNCIL EMISSIONS AND PUBLIC REPORTING

- 8.1 There had been circulated copies of a report by the Director Infrastructure and Environment seeking approval of the draft Public Bodies Climate Change Duties Compliance Report 2021/22, as contained in Appendix 1 to the report, and an organisational target for achieving zero direct greenhouse gas emissions. The Council was also asked to agree a change in governance remit with the Executive Committee taking the lead role on matters of environmental sustainability, including leading and driving action to combat the negative impacts of climate change, build resilience to adapt to climate change and to deliver 'Net Zero'. The report explained that by the end of November each year, the Council, in common with other public bodies, was required to report to Scottish Government on its progress in delivering climate action organisationally and within the Local Authority area for the preceding financial year. Amendments introduced this year placed additional reporting requirements on the Council including net zero targets and alignment of spend and resources with those targets. The Council had been working with the Edinburgh Climate Change Institute (ECCI) to develop an approach to meeting these requirements. This approach proposed increasing the sources of emissions against which the Council reported. This was consistent with the approach of other similar organisations and it increased the Council's understanding of its emissions impact, while enhancing its ability to manage that impact on a trajectory consistent with national targets and the Council's own targets. As a consequence of additional national reporting requirements, the Council must set a target for its own emissions. In response, it was requested that Council agree:

- A high level organisational target of Net Zero by 2045 (or earlier if achievable) reflecting the national target for emissions; and
- The development of sectoral targets within the Council's operations, set for 5 year timescales to focus and drive forward meaningful action against those targets.

8.2 Recognising that the Sustainable Development Committee was restricted to performing a role of oversight and scrutiny, it was proposed that responsibility for matters of environmental sustainability overseen by the Committee, including leading and driving action to combat the negative impacts of climate change, building resilience to adapt to climate change and to delivering 'Net Zero', be remitted to the Council's Executive Committee with former members of the Committee continuing to operate as a cross-party consultative group on matters of environmental responsibility. In response to a question regarding the number of Councillors who had attended the climate change training it was noted that it was less than 50%. Members were encouraged to sign up for the future courses. Members discussed the report and asked that more ambitious targets than 2045 be set where possible. The need for the Council to lead by example was highlighted.

DECISION

AGREED:-

(a) to approve the draft Public Bodies Climate Change Duties Compliance Report 2021/22, as contained in Appendix 1 to the report, for submission, with authority for final sign off being delegated to the Director of Infrastructure and Environment in consultation with the Executive Member for Environment and Transport;

(b) to approve an organisational target for achieving zero direct greenhouse gas emissions as follows:

(i) A high level organisational target of Net Zero by 2045 (or earlier if achievable) reflecting the national target for emissions, and;

(ii) The development of sectoral targets within the Council's operations, set for 5 year timescales to focus and drive forward meaningful action against the targets, as more particularly described in para 6.4 of this report;

(c) to amend the Scheme of Administration to remove the Sustainable Development Committee and to add the following delegated functions to the Council's Executive Committee:

(i) Provide direction, oversight and scrutiny of the Council's strategies, plans, policies and actions in leading and driving action to combat the negative impacts of climate change, build resilience to adapt to climate change and to deliver net Zero carbon by 2045 (at the latest) both organisationally and in the Scottish Borders overall.

(ii) Provide direction, oversight and scrutiny of the Council's strategies, plans, policies and actions in leading and driving action to undertake, promote and deliver environmental practices which accord with the UN Sustainable Development Goals;

(iii) Take cognisance of the Just Transition to a Net Zero Scottish Borders ensuring that all communities benefit from the transition

and that co-benefits are maximised (e.g. circular economy employment opportunities, health benefits)

(d) to set up a Sustainability Members Reference Group, comprising the current membership of the Sustainable Development Committee and with the terms of reference as detailed in Appendix 2 to the report.

9. LOCAL DEVELOPMENT PLAN - DEVELOPMENT PLAN SCHEME 2022

There had been circulated copies of a report by the Director Infrastructure and Environment proposing approval of the annual update of the Development Plan Scheme. The report explained that publishing a Development Plan Scheme annually was a statutory duty and it must include a participation statement setting out how, when and with whom the Council would consult on the various Local Development Plan stages. The proposed Development Plan Scheme 2022, contained in Appendix 1 to the report, had been prepared to provide information on the development plan process. It set out the latest position on the Council's development plans. It was noted that the Plan should be adopted by August 2023.

**DECISION
AGREED:-**

(a) to approve the proposed Development Plan Scheme 2022, as detailed in Appendix 1 to the report, for publication, deposit and copying to Scottish Ministers, and;

(b) to authorise the Director to make any necessary minor editing and design changes to the Development Plan Scheme prior to publishing it

10. TREE POLICY

There had been circulated copies of a report by the Director Infrastructure and Environment seeking approval for the adoption of a new Tree Policy that outlined the Local Authority's responsibilities regarding trees in its ownership. The Tree Policy, contained in the Appendix to the report, sought to set out the Local Authority's responsibilities and a consistent approach to advice and actions on their own tree stock and, outlining the Council's responsibilities and obligations in this regard. The Policy included operational responsibilities, through Parks, Open Spaces, Cemeteries and any SBC land ownership with tree cover. The Policy also covered Council responsibilities in relation to trees in private ownership. Members welcomed the report and in response to a question it was noted that there was a 5 year rolling programme to check all trees in Council ownership. However, if any issues such as Ash Die Back were reported then action would be taken. It was also explained how trees in private ownership causing obstruction of sight lines on public roads were dealt with. The need to publicise the policy was highlighted, including the mediation service.

DECISION

AGREED to approve the Tree Policy as contained in the Appendix to the report for adoption and publication.

11. INDEPENDENT INQUIRY ACTION PLAN

With reference to paragraph 4 of the Minute of 27 October 2022, the Director Education and Lifelong Learning gave an update on the Independent Inquiry Action Plan. The Review Group had undertaken a full review of all actions which had not yet been brought before Council for approval as complete and agreed which ones would be included in the report to Council in December. A short communications plan was to be compiled to

demonstrate the progress with the actions listed in the Plan to be shared with all stakeholders. With regard to the review of Child Protection training, this had now been completed. The Review Group had been updated on work being undertaken jointly with East, West and Mid Lothian and City of Edinburgh to implement the new Child Protection Guidelines and the Group agreed to extend the timescale to 31 March 2023. The timescale for the retention of records had also been extended as there was possible legal implications which were being checked with the Chief Legal Officer. A full report would be submitted to Council in December.

DECISION

NOTED the update.

12. LICENSING OF SHORT TERM LETS

With reference to paragraph 9 of the Minute of 29 September 2022, there had been circulated copies of a report by the Interim Chief Corporate Governance Officer advising Members of the responses received to the statutory consultation on 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 29 September 2022, Council agreed that a 3 week statutory consultation be carried out on the terms of the draft Policy and this was carried out between 5 October 2022 and 30 October 2022. The responses received during the consultation were detailed in Appendix 1 to the report. The Interim Chief Corporate Governance Officer highlighted the proposed revisals to the draft Policy following consideration of the responses received to the draft policy contained in Appendix 2 to the report. Members supported the Policy and the proposed fee structure.

DECISION

AGREED:-

- (a) to note the terms of the responses received and approve the amendments to the draft policy as detailed at Appendix 2 to the report; and**
- (b) thereafter to instruct the Interim Chief Corporate Governance Officer to adopt the amended draft Policy with immediate effect.**

13. 2023 REVIEW OF UK PARLIAMENTARY CONSTITUENCIES

With reference to paragraph 11 of the Minute of 28 October 2021, there had been circulated copies of a report by the Interim Chief Governance Officer giving details of the Boundary Commission for Scotland's revised proposals for new UK Parliamentary constituencies in Scotland as part of its 2023 Review. At its meeting held on 28 October 2021, Scottish Borders Council considered and noted the initial proposals from the Boundary Commission for Scotland for new UK Parliamentary constituencies in Scotland. On Tuesday 8 November 2022, the Boundary Commission published its revised proposals. These proposals were currently open to public consultation until Monday 5 December 2022. In the revised proposals, there were no changes to the Berwickshire, Roxburgh and Selkirk County Constituency from those in the initial proposals i.e. the whole of the Scottish Borders Council Tweeddale East Ward would now be in the Dumfriesshire, Clydesdale and Tweeddale County Constituency. Previously Polling District 2F (with 908 electors) was part of the Berwickshire, Roxburgh and Selkirk County Constituency. There were changes to the boundary of the Dumfriesshire, Clydesdale and Tweeddale County Constituency but these were near to Dumfries and had no impact on either the Tweeddale West or Tweeddale East Wards. Members noted that this corrected an anomaly but there was reference to the fact that Clovenfords identified more with Galashiels rather than Peebles.

DECISION

AGREED that the Council note the revised proposals for the Review of UK Parliament Constituencies 2023 which would mean, should these be accepted, that all of the electorate in the Council's Tweeddale East Ward would be within the Dumfriesshire, Clydesdale and Tweeddale Constituency for UK Parliament elections.

14. **MOTION**

There had been circulated copies of a Motion by Councillor Anderson, seconded by Councillor Ramage, in the following terms, as amended:-

“Protected Characteristics

Scottish Borders Council agrees, Care experience be made a protected characteristic and accepts:

- Despite the resilience of many care experienced people, society too often does not take their needs into account.
- Care experienced people often face indirect discrimination and stigma across housing, health, education, relationships, employment and in the criminal justice system.
- Care experienced people often face a postcode lottery of support Across the UK. However, we acknowledge the significant efforts of Scottish Borders Council to ensure this is minimised.
- As corporate parents, Councillors have a collective responsibility for providing the best possible care and safeguarding for the children who are looked after by us as an authority.
- All corporate parents should commit to acting as mentors, hearing the voices of looked after children and young people, and to consider their needs in any aspect of Council work.
- Councillors should be champions of our looked after children and challenge the negative attitudes and prejudice that exists in all aspects of society.

Scottish Borders Council therefore RESOLVES:

1. When making any decisions in relation to its policies, or formulating its Council Plan, that it recognises that Care Experienced people can and do face indirect and direct discrimination.
2. That it reaffirms its commitment to recognise that Scottish Borders Council has a duty to put the needs of vulnerable people at the heart of decision-making through co-production and collaboration, building upon and underpinning “The Promise”.
3. To formally call upon all other bodies to treat care experience as a Protected Characteristic until such time as it may be introduced by legislation.
4. For the Council to continue to proactively seek out and listen to the voices of care experienced people when developing new policies based on their views.
5. The Chief Social Work and Public Protection Officer brings a report to Full Council on the barriers care experienced adults face by 26 January 2023.
6. The agreed Motion would take effect from the receipt of the above report on 26 January 2023, to acknowledge the time needed for Officers to enact the changes needed.

If the above report was later than 26 January 2023, that the Motion still takes effect from 26 January 2023.”

Councillor Anderson spoke in support of his Motion.

Councillor Jardine, seconded by Councillor C. Hamilton, moved as an amendment:-

*That we take no further action at this time other than call for a report from the Director Social Work and Practice on the barriers faced by Care Experienced People and how the Council can address that. This report should be brought to us on as soon as possible in 2023 and no further decisions should be taken on this matter until then.”

Councillor Anderson agreed that he would accept the amendment on the basis that he had some involvement in the development of the report.

DECISION

AGREED that the Council take no further action at this time other than call for a report from the Director Social Work and Practice on the barriers faced by Care Experienced People and how the Council could address that. The report should be brought to Council as soon as possible in 2023 and no further decisions should be taken on this matter until then.

15. **APPOINTMENT**

It was reported that a member from the Regional Economic Partnership to the Regional Land Use Partnership Advisory Group. Councillor Jardine, seconded by Councillor Scott, moved that Councillor S. Hamilton be appointed and this was unanimously agreed.

DECISION

AGREED that Councillor S. Hamilton be appointed to the Regional Land Use Partnership Advisory Group.

16. **OPEN QUESTIONS**

DECLARATION OF INTEREST

Councillor Cochrane 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.

The questions submitted by Councillors Parker, Robson, Begg, Steel and Thomson were answered.

DECISION

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

MEMBER

Councillor Cochrane re-joined the meeting.

17. **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.

18. **MINUTE**

The private section of the Council Minute of 27 October 2022 was approved.

19. **COMMITTEE MINUTES**

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

The meeting concluded at 1.20 pm