

# Public Document Pack



## SCOTTISH BORDERS COUNCIL THURSDAY, 16 FEBRUARY, 2023

A BLENDED MEETING of the SCOTTISH BORDERS COUNCIL will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST. BOSWELLS AND VIA MICROSOFT TEAMS on THURSDAY, 16TH FEBRUARY, 2023 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,  
6 February 2023

<b>BUSINESS</b>		
1.	<b>Convener's Remarks.</b>	
2.	<b>Apologies for Absence.</b>	
3.	<b>Order of Business.</b>	
4.	<b>Declarations of Interest.</b>	
5.	<b>Minute (Pages 5 - 18)</b>  Consider Minute of Scottish Borders Council held on 26 January 2023 for approval and signing by the Convener. (Copy attached.)	2 mins
6.	<b>Committee Minutes</b>  Consider Minutes of the following Committees:-  (a) Audit 23 November 2022 (b) Cheviot Area Partnership 23 November 2022 (c) Berwickshire Area Partnership 1 December 2022 (d) Selkirk Common Good Fund 7 December 2022 (e) Scrutiny and Petitions 8 December 2022 (f) Audit 12 December 2022 (g) Pension Board 13 December 2022 (h) Galashiels Common Good Fund 14 December 2022 (i) Chambers Institution Trust 14 December 2022	5 mins

	<p>(j) Civic Government Licensing 16 December 2022  (k) Planning and Building Standards 9 January 2023  (l) Scrutiny &amp; Petitions 12 January 2023  (m) Eildon Area Partnership 26 January 2023</p> <p>(Please see separate Supplement containing the public Committee Minutes.)</p>	
7.	<p><b>PPP Service Concession Flexibilities</b> (Pages 19 - 34)</p> <p>Consider report by Acting Chief Financial Officer. (Copy attached.)</p>	20 mins
8.	<p><b>Caravan Site - Victoria Park, Selkirk</b> (Pages 35 - 44)</p> <p>Consider report by Director Resilient Communities. (Copy attached.)</p>	15 mins
9.	<p><b>Non Domestic Rates - Empty Property Relief Policy</b> (Pages 45 - 54)</p> <p>Consider report by Director Resilient Communities. (Copy attached.)</p>	15 mins
10.	<p><b>Social Work Non-Residential Charging</b> (Pages 55 - 60)</p> <p>Consider report by Director Social Work and Practice. (Copy attached.)</p>	15 mins
11.	<p><b>Duty of Candour Annual Report 2021/22</b> (Pages 61 - 80)</p> <p>Consider report by Director Social Work and Practice. (Copy attached.)</p>	15 mins
12.	<p><b>King's Coronation Holiday and Fund for Communities</b> (Pages 81 - 88)</p> <p>Consider joint report by Director People Performance &amp; Change and Director Resilient Communities. (Copy attached.)</p>	15 mins
13.	<p><b>Award of Subsidised Local Bus Service Contract 101/102</b> (Pages 89 - 96)</p> <p>Consider report by Director Infrastructure &amp; Environment. (Copy attached.)</p>	5 mins
14.	<p><b>Demand Responsive Transport</b></p> <p>Consider report by Director Infrastructure and Environment. (Copy to follow.)</p>	15 mins
15.	<p><b>Open Questions</b></p>	15 mins
16.	<p><b>Any Other Items Previously Circulated</b></p>	
17.	<p><b>Any Other Items Which the Convener Decides Are Urgent</b></p>	
18.	<p><b>Private Business</b></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>	
19.	<p><b>Minute</b> (Pages 97 - 98)</p>	1 mins

	Consider private Section of Minute of Scottish Borders Council held on 26 January 2023. (Copy attached.)	
20.	<p><b>Committee Minutes</b></p> <p>Consider private Sections of the Minutes of the following Committees:-</p> <p>(a) Selkirk Common Good Fund 7 December 2022  (b) Civic Government Licensing 16 December 2022</p> <p>(Please see separate Supplement containing private Committee Minutes.)</p>	1 mins
21.	<p><b>Levelling-Up Funding Outcome</b></p> <p>Consider presentation by Director Resilient Communities.</p>	20 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.**

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

MINUTE of BLENDED MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells and Via Microsoft Teams on 26 January 2023 at 10.00 a.m.

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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, N. Richards, E. Robson, M. Rowley, S. Scott, F. Sinclair, E. Small, A. Smart, H. Steel, R. Tatler, V. Thomson, E. Thornton-Nicol, T. Weatherston

In Attendance:- Chief Executive, Director Education and Lifelong Learning, Director Infrastructure and Environment, Director People, Performance and Change, Director Resilient Communities, Chief Officer Health & Social Care, Acting Chief Financial Officer, Acting Chief Officer Corporate Governance, Clerk to the Council.

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**1. CONVENER'S REMARKS**

- 1.1 With reference to paragraph 1(b) of the Minute of 24 November 2022, the Convener was pleased to present the Green Flag Awards for the Volunteer Team of the Year and the Employee of the Year to Lisa Brydon, Volunteer Co-ordinator at Wilton Park Walled Garden in Hawick. Lisa addressed Members and commented on the value of growing spaces in terms of both sustainability and mental health and suggested that every town in the Borders would benefit from having its own green growing space.
- 1.2 The Convener recognised the efforts of both Council staff and volunteer resilience groups who had assisted during the flood events over the festive period and passed on the thanks of the Council.
- 13. The Convener advised that the Doddie Weir Flag was now flying outside Council Headquarters which had been arranged by Councillor Parker and commented on the outstanding fundraising effort that was ongoing.

**DECISION**

**AGREED that congratulations be passed to those concerned.**

**2. MINUTE**

The Minute of the Meeting held on 16 December 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:-

Jedburgh Common Good Fund	14 November 2022
Community Planning Strategic Board	17 November 2022
Eildon Area Partnership	17 November 2022
Civic Government Licensing	18 November 2022
Chambers Institution Trust	23 November 2022
Peebles Common Good Fund	23 November 2022
Planning and Building Standards	5 December 2022
Executive	6 December 2022

**DECISION**

**APPROVED the Minutes listed above.**

4. **COMMITTEE RECOMMENDATIONS**

There had been circulated copies of an extract from the Minute of the Employee Forum held on 1 December 2022 recommending that the Scheme of Administration and Constitution for the Group be amended. Councillor Rowley as Chair of the Group spoke in support of the changes

**DECISION**

**AGREED to approve the following recommendations:-**

- (a) **to replace the Convenor of the Council with the Executive Member for Service Delivery and Transformation as Chairperson and that the name of the Employee Forum be changed to Colleague Community;**
- (b) **to amend the Elected Members appointed to the Committee, to replace reference to the Convenor with the Executive Member for Service Delivery and Transformation, and include “two other appointed members” in place of “another appointed member”; and**
- (c) **to include reference to the Colleague Representative Chairperson in the Management Committee section of the Constitution.**

5. **LOCAL GOVERNMENT FINANCE SETTLEMENT 2023/2024**

There had been circulated copies of a report by the Acting Chief Financial Officer providing Members with an analysis of the Local Government Finance Settlement for 2023/24, issued by Scottish Government on 20 December 2022 and updated on 10 January 2023. The report explained that the Local Government Finance Circular, contained in Appendix 1 to the report, provided details of the provisional total revenue and capital funding allocations for 2023/24. The funding allocations formed the basis for the Council's budget for 2023/24 and annual consultation between the Scottish Government and COSLA ahead of the Local Government Finance (Scotland) Order 2023 being presented to the Scottish Parliament. This was currently scheduled for early February 2023. Budget flexibilities identified in the settlement included no cap on Council Tax and a commitment to look at ring fenced funding by Scottish Government as part of a new partnership agreement with Local Government in Scotland. The estimated financial implications of the settlement on the Council budget in 2023/24 was a small increase of £0.049m in the Capital settlement and a settlement of £257.765m for revenue which was required to fund core spend, a range of new policy priorities required by the Scottish Government, as well as the ongoing impact of inflation. The settlement provided slightly more revenue resources than were anticipated totalling £1.5m when comparing base budget 2022/23 to base budget 2023/24 and adjusting for Scottish Government priorities funded within the settlement. The impact on Council budgets of inflation in 2023/24 was estimated at £8.7m; the additional £1.5m would help to partly offset the real terms reduction in the resources available. After applying this funding, the reduction in the Council's spending power was £7.2m in real terms; this gap would have to be addressed as part of the Council's budget process. The meeting of Council to set the budget was scheduled for 23 February 2023. Members commented on the challenges ahead and the Leader encouraged members of the public to take part in the budget consultation process, asking Councillors to share this as widely as possible. In response to a question on the difficulties caused by ring-fencing matters relating to education, the Leader confirmed that this was being pursued by COSLA.

**DECISION**

**NOTED:-**

- (a) **the officer interpretation of the Local Government Finance Settlement and associated financial implications for the Council; and**
- (b) **that a budget gap remained for 2023/24, with Officers and the Council's Budget Group continuing to consider options for presenting a balanced budget for Council approval on 23 February 2023.**

6. **HAWICK CARE VILLAGE – OUTLINE BUSINESS CASE**

With reference to paragraph 5 of the Minute of 29 September 2022, there had been circulated copies of a report by the Chief Officer Health and Social Care Integration presenting the Outline Business Case (OBC) for Hawick Care Village provision and seeking approval of, and to take forward, the preferred option. The OBC, a copy of which was appended to the report, included the Strategic Case for change, the Economic Case, the Commercial Case, the Financial Case and the Management Case. It was explained that the Economic Case set out the Non-Financial and Financial appraisal of options and the preferred option which would be further developed as part of the of the Full Business Case for Hawick Care Village provision. Since September, the 4 options had been developed further and appraised. During this process, the Private Residential Care provider withdrew their interest and so Option 3 was not taken forward in the appraisal process. If the preferred option was agreed, the Full Business Case would be developed with Eildon Housing Association, and submitted to both the Integrated Joint Board and Council upon completion for approval. Members welcomed the progress made and thanked the Team working on this project. The importance of a plan for the decommissioning of Deanfield and the need to keep the public fully informed was highlighted. Mr Myers confirmed that there was a decommissioning workstream and this would be included as part of the full Business Case. In response to a question on the need for a medical and nursing care package, Mr Myers advised that the aim was for a holistic model of care. This was the next part in the process of moving from old fashioned care homes to the future provision of care. There would also be continued engagement with the Stirches and wider Hawick community as the project developed.

**DECISION**

**AGREED:-**

- (a) **the preferred option of a new build with Eildon Housing Association on their Stirches site;**
- (b) **progression to the next stage of the preferred option and the development of a Full Business Case; and**
- (c) **to approve the closure of Deanfield Residential Care Home on completion of the new Care Village.**

7. **JEDBURGH LEISURE FACILITIES TRUST**

With reference to paragraph 9 of the Minute of 15 December 2022, there had been circulated copies of a report by the Chief Executive setting a proposal to help mitigate the financial challenges facing the Jedburgh Leisure Facilities Trust (JFLT), following approval of a grant of £127,000 to the Berwickshire Recreation and Education Sports Trust (BREST) at Council on 15 December 2022. The JFLT, like BREST, had had significant increases in their cost base since the COVID 19 pandemic due to rising energy costs and reduced patronage income. It was therefore proposed to provide financial assistance to JFLT of £127,000 from the Council's recovery fund for the 2022/23 financial year to assist with the costs of a programme of energy efficiency works that would significantly reduce the running costs of the Laidlaw Memorial Pool. The report explained that with increasing energy costs in recent

years, the three Leisure Trusts operating in the Borders had seen increasing costs of running their facilities. Live Borders was the largest of the three charitable trusts commissioned by SBC for the delivery of sport, leisure and cultural services operating 6 pools across the Region. The other two Borders based trusts operating swimming pools were the Jedburgh Leisure Facilities Trust, which operated the Laidlaw Memorial Pool in Jedburgh, and Berwickshire Recreation Educational Sports Trust, which operated Duns Swimming Pool. The increase in energy costs had been especially felt in those leisure centres operating swimming pools, with pools facing particular challenges in continuing to operate while keeping their costs of admission affordable to users. Sport, physical activity and cultural activity played a vital role in delivering the Council Plan and Community Plan priorities and outcomes, in particular the priority of 'Good Health & Wellbeing', where the people of the Scottish Borders would be "enabled and supported to take control of their health and wellbeing, and enjoy a high quality of life" so that the Borders would have "more people in good health, leading an active lifestyle at every age and stage of life". Swimming pool buildings consumed significantly more energy per sq. m than most other building types; careful design and the operation of pools to conserve energy was therefore of fundamental importance in ensuring their continued viability. Without sufficient funding to assist the Trusts to reduce their energy usage and their carbon footprint, the financial viability of swimming pools in the Borders was at risk. This in turn risked the delivery of the Council's corporate priorities associated with Health and Wellbeing, and the important community benefits they delivered. Council had already agreed to assist BREST, and this paper sought approval to also provide the same level of grant funding of £127,000 to the Jedburgh Trust. Discussions with Live Borders were also progressing and would be reported to Council at the earliest opportunity. Members supported the proposal and highlighted the importance of swimming for health, wellbeing and safety given the length of coastline and number of rivers in the Scottish Borders.

#### **DECISION**

**AGREED to provide one-off financial support to Jedburgh Leisure Facilities Trust in the current financial year of £127,000 from the Recovery Fund to help finance a programme of energy improvement works identified by the Trust at the Laidlaw Memorial pool.**

#### **8. PEEBLES SWIMMING POOL FIRE UPDATE**

There had been circulated copies of a report by the Director Infrastructure and Environment providing an update on the repair works to Peebles Swimming Pool. The report explained that a fire in June 2022 had caused damage to the roof, plant room and parts of the internal fabric of the main pool hall. Although the fire caused moderate damage to the roof structure, there had been significant water penetration to the plant room and ceilings within the main pool hall as a consequence of extinguishing the fire. The roof tiles were known to be an asbestos-containing material and therefore specialists were engaged to undertake immediate removal of debris from the surrounding site. As a result of this, internal air assurance asbestos testing was undertaken to allow safe access within the building for damage assessments. In consultation with Live Borders, the decision was made to close the pool to the public, allowing thorough investigations to take place. Following discussions with the Council's fire insurance provider, agreement had been reached on the work required to repair the fire damage and this work had now commenced. It was also agreed that all roof/ceiling tiles that contained asbestos would be removed as part of the repair works. The swimming pool was intended to re-open to the community in Spring 2023. Members noted the reasons for the delay in commencing repair works and expressed the hope that they would be completed as soon as possible as this was an essential facility for Tweeddale. The need to learn lessons for future projects was highlighted.

#### **DECISION**

**NOTED the contents of the report.**

#### **9. EDINBURGH AND SOUTH EAST SCOTLAND REGIONAL PROSPERITY FRAMEWORK DELIVERY PLAN**



With reference to paragraph 6 of the Minute of 23 September 2021, there had been circulated copies of a report by the Director Resilient Communities seeking ratification of the Regional Prosperity Framework (RPF) Delivery Plan, a copy of which was appended to the report, in anticipation of approval by the City Region Joint Committee on 3 March 2023. The Regional Prosperity Framework Delivery Plan was the articulation of the next phase of the development of the regional economy, building upon the successes of the City Region Deal. It was both an action plan, focused on more immediate and currently resourceable interventions, and a prospectus for investment setting out collective ambition and opportunity for the city region to become the data capital of Europe; support inclusive growth; and a just transition to a net zero economy over the next 20 years. The document was a live document that would be updated every 12 months to reflect changes to the local, regional, and macro economy and to ensure that regional activity could react and remain relevant to city region partners. Over the next 12 months four key programme areas had been identified, namely Green Regeneration, Infrastructure & Recovery, Visitor Economy & Culture and Data-Driven Innovation. To realise the ambitions of the Delivery Plan, Regional Partners would ask both the Scottish and UK Governments to commit to work in tripartite (UKG/SG/ESES) partnership to progress the Delivery Programme which was aligned with Scotland's National Strategy for Economic Transformation (NSET) and UK Government Levelling Up and Shared Prosperity priorities and for the Delivery Plan to be supported through a medium to long term, integrated, place-based funding allocation based on shared outcomes. The Regional Prosperity Framework Delivery Plan would be considered by the other five constituent Local Authorities in the region ahead of the meeting of the Edinburgh and South East Scotland City Region Joint Committee on 3 March 2023, which (subject to agreement) would conclude formal sign off of the Delivery Plan under the City Region's governance arrangements. The report also highlighted the City Region Deal Annual Report for 2021/22, which provided an update on overall progress for the City Region Deal programme between 1 August 2012 and 31 July 2022, and included the expected milestones to be achieved in the next year. Members welcomed the report and the ambition for the area. In response to a question on the unsuccessful levelling up funding application, the Director advised that she was still awaiting formal feedback on the bid which would be critical to make sure bids for round 3 were clearly articulated.

**DECISION  
AGREED:-**

- (a) to approve the Regional Prosperity Framework Delivery Plan;**
- (b) to note that the Delivery Plan would be considered by the other five constituent Local Authorities in the Edinburgh and South East Scotland City Region (ESES CR) ahead of the ESES CR Joint Committee meeting on 3 March 2023;**
- (c) to note the progress highlighted in the 2021/22 City Region Deal Annual Report; and**
- (d) that future updates on the progress of the City Region Deal and Delivery Plan would be provided to the (Economic Development) Executive Committee.**

**10. MOTION**

Councillor Anderson, seconded by Councillor Tatler, moved approval of the following Motion as detailed on the agenda:-

“That Scottish Borders Council recognises the major increase in the level of fuel bills currently being experienced, with no sign of a reduction in the immediate future, is causing huge issues not only on the public's available funds to be able to pay them but also the mental distress of worry about providing for their own and their families' welfare.

The Council therefore agrees that the Leader of the Council writes to the Minister of State (Minister for Energy and Climate) and the Cabinet Secretary for Net Zero, Energy and

Transport to ask for more pressure to be applied to the energy companies to give clear, uncomplicated bills to the public – including making clear the standing charge for meters - along with simplified billing advice so that they not only are able to understand their bills but also know where to seek help in either spreading the cost of these bills or finding other means of heating their homes. Energy companies should be required to place their customers automatically on the lowest unit price they offer for gas, electricity or oil as a matter of good practice.”

Councillors Anderson and Tatler spoke in support of the Motion which was unanimously agreed.

**DECISION**

**AGREED to approve the Motion as detailed above.**

**11. COMMITTEE APPOINTMENT**

Councillor Jardine, seconded by Councillor S. Hamilton, moved that Councillor Richards be appointed to the H&SC Integrated Joint Board and the H&SC IJB Audit Committee to replace Councillor Cox.

**DECISION**

**AGREED that Councillor Richards be appointed to the H&SC Integrated Joint Board and the H&SC IJB Audit Committee**

**12. OPEN QUESTIONS**

The questions submitted by Councillors Sinclair, Thornton-Nicol, Thomson, Mackinnon, Smart, Begg, Steel and Parker were answered.

**DECISION**

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

**13. URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chair 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 keep Members informed.

**14. APPOINTMENT OF CHIEF EXECUTIVE**

With reference to paragraph 2 of the Minute of the meeting held on 12 July 2022, there had been circulated copies of a report by the Director People, Performance and Change on the appointment of a new Chief Executive. At its meeting on 12 July 2022, the Council approved the establishment of an Appointment Committee which was delegated full authority to appoint a permanent new Chief Executive, following the appropriate assessment and interviewing procedures. The Appointment Committee conducted interviews for the post of Chief Executive on 18 January 2023 and unanimously agreed to the appointment of David Robertson to the post of Chief Executive and Head of Paid Service. The Convener, Leader and Group leaders congratulated Mr Robertson on his appointment. Mr Robertson thanked Members for their kind words and paid tribute to the Council's Management Team and the staff within the Council for their dedication and hard work, commenting that it was a huge privilege to lead them.

**DECISION**

**NOTED:-**

- (a) the details of the recruitment exercise for a Chief Executive; and**
- (b) the appointment of David Robertson to the post of Chief Executive and Head of Paid Service, which commenced with immediate effect.**

**15. 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**

16. **Committee Minutes**

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

17. **Private Committee Recommendation**

Members approved a recommendation by the Peebles Common Good Fund Sub-Committee regarding Jedderfield Farm.

The meeting concluded at 11.40 a.m.

**SCOTTISH BORDERS COUNCIL**  
**26 JANUARY 2023**  
**APPENDIX I**

**OPEN QUESTIONS**

**Question from Councillor Sinclair**

To the Executive Member for Community and Business Development

What discussions have been held between the council and operators regarding bringing a hotel to Galashiels, and what progress has been made towards this aim to date?

Response from Councillor S. Hamilton

Council officers have met potential investors throughout 2022 to discuss potential hotel development opportunities. Engagement has continued into 2023, with officers exploring possible site options and potential delivery models.

Between December 2021 and today, officers from Economic Development and Infrastructure & Environment have had 8 meetings with potential investors as well as a number of telephone calls and email exchanges.

Officers intend to continue to pursue discussions during 2023. Where appropriate and should a viable site and delivery model be identified, they will work with colleagues from other agencies, such as the South of Scotland Enterprise, with a view to enabling the development of a hotel in or around Galashiels.

These discussions are at an early stage, commercially sensitive and dependent on the economic climate.

**Question from Councillor Thornton-Nicol**

To Executive Member for Service Delivery and Transformation

What is the current compliance rate for mandatory training across Council and is it being actively managed to achieve 100%?

Response from Councillor Rowley

The current compliance rate for staff mandatory training completed across the Council is 82%, this excludes a new course added in the last few weeks on an Introduction to the Climate emergency.

The completion of mandatory training is being actively managed across all services. To encourage compliance a quarterly report is sent to the Council Management Team (CMT), showing a monthly summary % of completions on each mandatory module/course by Service and section.

SLT members then use this report to notify their managers on levels of completion rates who in turn work with individual staff to complete any outstanding modules and identify any reasons for non-compliance.

The staff appraisal system also has a specific section built in asking if all mandatory training has been completed, why not and if not when will it be completed

Going forward, in addition to the above, we plan to put out a quarterly communication to remind staff of the mandatory learning pathway and provide update on any changes to current modules/course where they will be required to undertake the course or any new courses that have become mandatory.

New mandatory courses are also communicated as and when they become available for staff to access.

### Supplementary

Councillor Thornton-Nicol noted the improved position and asked that Group Leaders ensure that all Councillors were also up-to-date with their mandatory training. Councillor Rowley supported this request.

### **Question from Councillor Thomson**

#### To the Executive Member for Service Delivery and Transformation

What project management tool does SBC use, and is it possible for Councillors to get access to project plans, RAG reports etc. for projects/programmes in which they are involved. This would give a clearer understanding of progress and any issues being faced at key stages of the project/programme.

#### Response from Councillor Rowley

For major projects, SBC engage with externally appointed project managers who develop project management plans, provide monthly dashboard reports and manage the delivery of the project and all members of the design and delivery team. The approach used is generally in line with the Association of Project Management (APM) Book of Knowledge.

Projects are governed in line with the scheme of delegation, typically through the establishment of a project board with defined terms of reference and with agreed tolerances.

The operational management of projects rests with officer and officers provide updates on individual projects and programmes as required through Members Briefings, Reports to Executive Committee or Council.

If elected members have any concerns with regards to projects that are not addressed by these regular updates, they should contact the Service Director seeking further information and assurance.

### Supplementary

Councillor Thomson asked that any major projects had a communications plan, which included a brief to be shared with stakeholders, as some projects did not seem to provide that. Councillor Rowley asked that she raise her specific concerns about particular projects with him following the meeting and he would speak to officers.

### **Question from Councillor Mackinnon**

#### To the Executive Member for Environment and Transport

What steps are being taken to improve bus services in the region, particularly the lack of late buses from Galashiels to other towns which is impacting the evening economy in the heart of the Borders?

#### Response from Councillor Linehan

Since the onset of Covid – 19, bus services across the Scottish Borders have been significantly impacted by a reduction in passenger numbers. The most recent figures show that patronage across the regions bus services is currently sitting at 78% of pre Covid levels with only 60% of the over 60 travellers returning to public transport since the pandemic.

This is being compounded by increased operating costs with costs such as fuel up 33% on the same time last year, other items such as tyres and parts are up 18%. This makes it very difficult for transport operators to increase frequencies when the demand is currently very low.

Late evening journeys have been impacted the most as a result of the pandemic with very little demand for people travelling after 7pm. Where there has been feedback from the public for an increase in late evening journeys, some services such as the X62, Galashiels – Peebles – Edinburgh, have had variations to the timetable to enable later journeys.

Over the past 2 and a half years, the council's transport officers have been working closely with local transport operators to assess passenger trends via data derived from ticket machines on bus whilst also listening to public feedback on bus services, the network has then been adjusted to reflect any changes to travel patterns.

In order to try and reverse some of the current trends, Scottish Borders Council in partnership with the workforce mobility project have commissioned Jacobs to carry out a review of the regions bus transport network. Key objectives are to:

- Reduce inequalities;
- Take climate action;
- Maximise the efficiency and effectiveness of publicly subsidised services;
- Help deliver inclusive economic growth and community wealth building by linking people to jobs and customers to businesses; and
- Improve health and wellbeing by connecting people to communities and enabling healthy transport choices.

The review includes and extensive engagement exercise with key stakeholders, partners and local communities as well as looking at data from the existing network and overlaying this with additional data supplied by businesses and employers to establish new travel opportunities for residents across the Borders.

A report will be prepared and brought to Council later in 2023.

### **Question from Councillor Smart**

#### To the Executive Member for Lifelong Learning

In the Administration Policy Plan 2022-2077, under the section 'Fulfilling our Potential', it states on page 5 that with regards to Neurodiversity 'We will develop an ethos in all our schools that is inclusive, tolerant and open-minded towards individual differences. To ensure this happens we will:

- Encourage staff who identify as neurodivergent to contribute to operational planning'

This is a commendable aim and has my full support.

My question is this, how will we as a Council assess which staff are potentially neurodivergent and encourage them to participate in operational planning?

#### Response from Councillor L. Douglas

There are a number of opportunities that we are exploring to ensure we encourage staff to contribute to planning.

Our annual staff survey is a key tool which we can use to invite staff to inform us if they would identify as neurodivergent. While this is an anonymous survey, this would allow us to have a picture of staff and we would also provision that staff who were interested in contributing to planning to provide contact details.

While many individuals may prefer not to share this information with us, our planned general awareness raising both internally and externally will provide a level of understanding which could promote staff to come forward. Our elearning offer already had some useful material in this respect and can be added to as we progress this priority.

Further opportunity comes from audit tools which we as an employer can use to assess our own policies, procedures and arrangements for staff to identify areas for potential improvement. This is where we can involve staff meaningfully in operational planning.

#### Supplementary

Councillor Smart agreed that while this was a commendable aim she had concerns if people were self-identifying and asked that this be dealt with in a sensitive way through a formal process. She

appreciated that getting a formal diagnosis could be a long process and asked if any help could be provided. Councillor Douglas undertook to raise this with officers.

### **Question from Councillor Begg**

#### To the Executive Member for Environment and Transport

When will a report on the Dial a Bus on-demand trial in Berwickshire likely be available, and in the interim, are there any indicative figures to compare the subsidy per passenger mile on the pre-trial bus provision with that during the trial?

#### Response from Councillor Linehan

There is a Members Briefing planned on 2 February 2023 to provide elected members with an update on the Demand Responsive Transport pilot.

There is an interim report prepared by officers in December. This is available for any members interested and a copy has been sent to Cllr Begg.

A further formal report is currently being prepared, is due to be completed for the beginning of February. This report will evaluate the Berwickshire PINGO pilot against business case objectives and provide an economic assessment.

#### Supplementary

Councillor Begg asked if officers and the Executive Member would meet with the Tweeddale Councillors to discuss sustainable transport in their area, given the low number of passengers on some routes. Councillor Linehan agreed to raise this with officers.

### **Question from Councillor Steel**

#### To the Leader

Does the Administration support COSLA's call for a halt to the passage in the Scottish Parliament of the National Care Service Bill?

#### Response from Councillor Jardine

The Council is a member organisation of Cosla and as such supports the position agreed by COSLA leaders. The Council has significant concerns as to the implementation of the National care Service Bill as currently drafted, its anticipated costs, and as yet unknown implications for local service provision.

The Council has previously set out its position with regards to the National Care Service Bill in evidence submitted to the Scottish Parliament and considered by Council on the 25<sup>th</sup> August 2022.

As agreed by Council a letter was submitted to the Minister for Mental Health and Social Care setting out a proposal for a locally designed Scottish Borders test of change to be developed in partnership with NHS Borders and the Scottish Borders Health and Social Care Integrated Joint Board. The Minister has responded positively to this approach and work is now progressing led by the Chief Officer of the IJB. This will be reported to Council in due Course.

#### Supplementary

Councillor Steel asked Councillor Jardine if he agreed that resources being held back by Government relating to this legislation should be released to help the care crisis. Councillor Jardine confirmed his agreement.

### **Question from Councillor Parker**

#### To the Executive Member for Community and Business Development

It was enormously disappointing to hear that the Scottish Borders will receive **no funding support** from the UK Levelling Up Fund. Scottish Borders Council submitted a sound bid for funding that

would have supported numerous projects across the Scottish Borders. Can the Executive Member provide the following information:

- (a) Why was the bid not successful?
- (b) What is the Executive Members plan B for providing funding support to all of the projects that were part of the failed Levelling Up bid?
- (c) When will Council discuss the projects that will now not receive funding support so that Elected Members can determine how best to take the projects forward?

Response from Councillor S. Hamilton

Scottish Borders Council submitted three ambitious transport, culture and heritage, and town centre regeneration bids involving multiple partners and community organisations which together aimed to level up the whole region. The bids were developed in regular consultation with civil servants and local stakeholders, with support from consultants who helped ensure a robust economic and strategic case for investment was made. As a region identified as a Priority 1 area for Levelling Up investment, we are extremely disappointed by this outcome.

- (a) **Why was the bid not successful?**  
The UK Government's Levelling Up Fund is a competitive programme. The Department for Levelling Up, Housing and Communities received 525 bids for the current bidding round, and 111 bids were successful, meaning just over 20% of bids were approved. Analysis of the value of bids submitted was in the region of £10 billion. Officers are meeting with senior civil servants for further feedback on the Scottish Borders bids.
- (b) **What is the Executive Members plan B for providing funding support to all of the projects that were part of the failed Levelling Up bid?** – Officers are currently looking at options for alternative funding to progress the projects that were submitted to Round 2 of the Levelling Up Fund. Information has also been requested from UK Government on the timescales and criteria for the next expected Round 3 of Levelling Up Funding.
- (c) **When will Council discuss the projects that will now not receive funding support so that Elected Members can determine how best to take the projects forward?** Once officers have received further feedback from the UK Government on the reasons why the submitted bids were not successful, and the expected timescales for the submission of the next round, Elected members have asked officers to ensure they fully briefed and engaged on the next steps.





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## **PPP SERVICE CONCESSION FLEXIBILITIES**

**Report by Acting Chief Financial Officer**

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**SCOTTISH BORDERS COUNCIL**

**16 February 2023**

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### **1 PURPOSE AND SUMMARY**

- 1.1 **The purpose of this report is to consider the impact for the Council of changing the statutory accounting treatment for Service Concession Arrangements (SCAs) as set out in Finance Circular 10/2022 – finance leases and service concession arrangements.**
- 1.2 The Scottish Government's 2022 Resource Spending Review, contained details of a Service Concession Arrangement flexibility that relates to the Council's PPP schools. The flexibility permits Councils to undertake internal accounting changes that extend the period over which the principal repayment debt element of the unitary charge can be made over the life of the asset rather than the life of the contract. This change would result in a one-off credit to the Council and ongoing annual savings for a period of time. In the remaining years following the end of the SCAs, the rescheduled debt repayments continue until the debt liability has been extinguished.
- 1.3 The Statutory Regulation in relation to this matter, Local Government Finance Circular 10/2022 (FC 10/2022), was published and issued to Councils in September 2022.
- 1.4 FC 10/2022 permits the option for Scottish Councils to apply additional flexibility to the accounting treatment for Service Concession Arrangements (SCA) in place before 1st April 2022. The statutory guidance applies from the financial year 2022 to 2023 but permits retrospective application as an option.
- 1.5 If this approach is adopted, it must be applied to all service concession arrangements, leases, and similar arrangements with the exception of such arrangements where the contract will expire within five years, where it may be applied. The Council has three such arrangements in place at present:
  - The original PPP scheme (3 secondary schools – Earlston HS, Berwickshire HS, Eyemouth HS);
  - Kelso High School; and
  - Jedburgh Intergenerational Campus.
- 1.6 In terms of the requirements of FC 10/2022 the Council will need to show that the financial implications of the change are prudent, sustainable, and affordable over the life of the asset and explain the basis for the accounting policy change. The reason for the change should be disclosed, along with an explanation of the movement in both the Balance Sheet and the General Fund. Where the annuity method has been applied, narrative should explain how this method links to the flow of benefits from the asset.
- 1.7 Advice and support has been sourced from Link Asset Services, the Council's treasury management consultant.

## **2 RECOMMENDATIONS**

### **2.1 It is recommended that Scottish Borders Council:**

- a) applies, as per section 2.2 of FC 10/2022, the permitted PPP Concession flexibility in financial year 2023/24 on a retrospective basis using an annuity basis with a useful asset life of 50 years;**
- b) notes that the flexibility being applied is consistent with current Council Loans Fund arrangements and is considered prudent, sustainable, and affordable over the life of the asset;**
- c) notes that, by applying the flexibility, a one off retrospective saving of £29.093m will be achieved followed by a reduction in the annual charges for a further 16 years (commencing in FY 2023/24) and the continuation of the statutory charges after the SCA contracts have been repaid; and**
- d) agrees to allocate the £29.093m retrospective saving as follows:**
  - £9.093m contribution towards supporting the revenue budget over the first 3 years of the revenue plan from 2023/24 as detailed in 4.13; and**
  - retain the balance of £20m in reserves to establish a £20m change fund. This fund would be deployed over the next 5 years targeted at new technology, service changes and cost reductions to ensure the Council remains financially sustainable while maintaining service standards.**

### **3 BACKGROUND**

- 3.1 The Scottish Government's 2022 Resource Spending Review, contained details of a Service Concession Arrangement flexibility that relates to the Council's PPP schools. The flexibility permits Councils to undertake internal accounting changes that extend the period over which the principal repayment debt element of the unitary charge can be made over the life of the asset rather than the life of the contract. This results in a one-off credit to the Council and ongoing annual savings for a period of time. In the remaining years following the end of the SCAs, the rescheduled debt repayments continue until the debt liability has been extinguished.
- 3.2 The Statutory Regulation in relation to this matter, Local Government Finance Circular 10/2022 (FC 10/2022), was published and issued to councils in September 2022.
- 3.3 FC 10/2022 permits the option for Scottish Councils to apply additional flexibility to the accounting treatment for Service Concession Arrangements (SCA) in place before 1st April 2022. The statutory guidance applies from the financial year 2022 to 2023 but permits retrospective application as an option.
- 3.4 If this approach is adopted, it must be applied to all service concession arrangements, leases, and similar arrangements with the exception of such arrangements where the contract will expire within five years, where it may be applied. The Council has three such arrangements in place at present:
  - The original PPP scheme (3 secondary schools – Earlston HS, Berwickshire HS, Eyemouth HS);
  - Kelso High School; and
  - Jedburgh Intergenerational Campus
- 3.5 In terms of the requirements of FC 10/2022 the Council will need to show that the financial implications of the change are prudent, sustainable, and affordable over the life of the asset and explain the basis for the accounting policy change. The reason for the change should be disclosed, along with an explanation of the movement in both the Balance Sheet and the General Fund. Where the annuity method has been applied, narrative should explain how this method links to the flow of benefits from the asset.
- 3.6 Advice and support has been sourced from Link Asset Services, the Council's treasury management consultant.

### **4 PROPOSALS**

- 4.1 Finance Circular 10/2022 (FC 10/2022) replaces the 2010 version that covered this area and permits the authority to apply a temporary flexibility for service concession arrangements entered prior to April 2022. The Circular sets out the accounting requirements and the options permitted for the recognition of repayments of the principal element of the lease component or the lease liability for the year and the temporary flexibility for SCAs entered into prior to 1 April 2022.
- 4.2 Appendix 1 provides an analysis of the options contained in FC 10/2022 along with various prudence and consistency aspects that must be assessed when considering the application of the options contained in the statutory guidance.
- 4.3 Authorities have the flexibility to apply the change in the calculation of the statutory charge in either 2022/23 or 2023/24. This approach will apply to all credit arrangements going forward. The adopted approach must be applied across all such arrangements in line with the key accounting principle of consistency. There is an exception for schemes that have less than 5 years

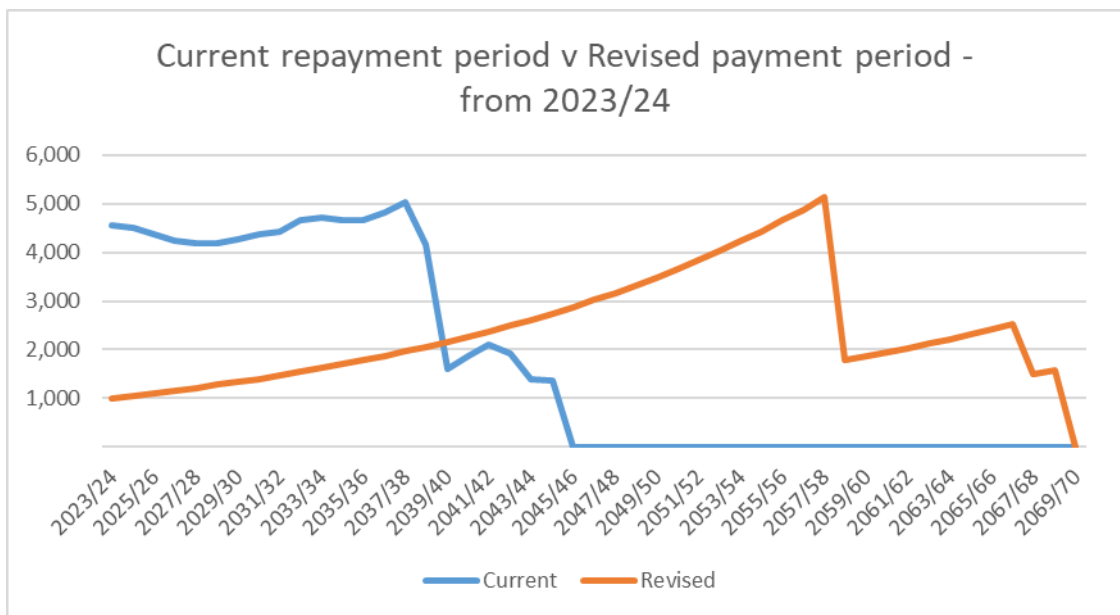
remaining; however this is not applicable in this case. The details of the permitted approach are contained in Appendix 2.

- 4.4 The annual unitary charge will continue to be paid to the contractor over the contract period. The guidance applies to principal and not to interest, service charge costs or grant. These will continue to be accounted for over the contract period.
- 4.5 In determining whether to apply the flexibility to the accounting policy for SCAs, the Council needs to ensure it maintains a prudent approach and any changes are sustainable in terms of the Council's revenue budget.
- 4.6 When determining 'a prudent policy' for SCAs the Council needs to consider the financial implications in the context of the financial forecast of the Council's Financial Plan. The Council's draft 2023/24 Financial Plan, which will be presented to Council on the 23 February 2023, reflects budget gaps in future years where costs exceed funding available.
- 4.7 Based on the analysis contained in Appendix 2, it is recommended that Option 2.2 of FC 10/2022 be applied in 2023/24 for the SCAs currently held by the Council as it is considered to be prudent and consistent when assessed against the various considerations.

**4.8 Summary Impact of Applying Section 2.2 of FC 10/2022**

The current repayment charges for each SCA have been compared against an annuity repayment profile based on the estimated useful asset lives for the each of the three SCA arrangements. The most appropriate asset life is considered to be 50 years which replicates the useful asset life of other similar type assets held on the Council's balance sheet i.e. schools. The calculation of the repayment charges of each SCA or Public Private Partnership (PPP) scheme using the asset life annuity basis is compared to the current charges which are made over the contract period. Further detail is provided in Appendix 3 for each of the three SCAs held and is summarised as follows in both a summarised table and graphical form:

	<b>Total of PPP Schemes</b>			
	<b>Current Position</b>	<b>Principal repayments based on simple 50 year annuity</b>		
<b>PPP principal repayments</b>	<b>Current repayment £000</b>	<b>Revised repayment £000</b>	<b>(Reduction)/cost £000</b>	<b>NPV 3.5% £000</b>
<b>pre 2023/24</b>	37,111	8,017	(29,093)	(29,093)
<b>2023/24</b>	4,566	1,004	(3,562)	(3,441)
<b>Yrs 2 to 5</b>	17,321	4,531	(12,790)	(11,374)
<b>Yrs 6 to 10</b>	21,923	7,031	(14,892)	(11,311)
<b>Yrs 11 to 25</b>	38,353	34,718	(3,635)	(4,653)
<b>Yrs 26 to 40</b>	0	51,416	51,416	17,099
<b>Yrs 41 to 50</b>	0	12,556	12,556	2,837
<b>Total</b>	119,274	119,274		(39,934)



- 4.9 The total cumulative statutory adjustment up to the 31st March 2023 which would result from changing the calculation of the repayment of debt liability on the three SCAs using a 50-year annuity period is £29.093m. This is a one off in year reduction, compared to the current schedule of repayments.
- 4.10 In the financial years up to the expiry date of each contract there would be further reductions. In the remaining years following the end of the SCAs, the rescheduled debt repayments continue until the debt liability has been extinguished. The full repayment profiles are provided in detail for each SCA in Appendix 3.
- 4.11 Over the full life of the SCAs the total repayment for the debt liability remains the same. However, when a Net Present Value (NPV) is applied the reprofiled charges would result in a total reduction in NPV terms of £39.934m.
- 4.12 The reprofiling of the debt liability repayments would increase the Capital Financing Requirement (CFR) by £29.093m as at 1 April 2023, if the Council made the adjustment in the financial year 2023/24. The increase in the CFR will continue to be reduced by the revised repayments after each SCA contract has expired until the end of the revised period.
- 4.13 Changing the repayments of the SCA debt liability using Option 2.2 produces significant retrospective one off savings of £29.093m and ongoing revenue savings in the short to mid-term (as detailed in 4.8 above). As noted in 4.6 above, budget gaps remain in the five year revenue plan where costs exceed funding available. To achieve a prudent managed approach for the release of these savings and to align with the requirements of the financial plan, it is proposed to allocate a proportion of the retrospective savings created from the statutory one-off adjustment to “smooth” the identified budget gap over the next three years as follows to allow more time to achieve the permanent savings required to ensure the Council remains on a financially sustainable footing. The following table reflects the estimated profiling over the 3 year period.

2023/24 £m	2024/25 £m	2025/26 £m	Total
0.682	4.399	4.012	9.093

- 4.14 The remaining balance of the identified retrospective saving of £20m would remain as an allocated reserve within Council balances with a recommendation that the Council establishes a £20m change fund. This fund would be deployed

over the next 5 years targeted at new technology, service changes and cost reductions to ensure the Council remains financially sustainable while maintaining service standards.

- 4.15 In addition to the one off retrospective element, an in year saving would occur in scheduled debt repayments in 2023/24, if applied from 1 April 2023, of £3.562m. This would be followed by a reduction in the annual charges for a further 15 years and then the continuation of the statutory charges after the SCA contracts have been repaid. Details of the profile of debt rescheduling is outlined in Appendix 3. It is proposed that this annual saving will be applied to the budget gap in 2023/24 financial year and in future years as a recurring base budget saving, with adjustments required in future annual budgets to ensure resources remain sufficient to pay the debt as outlined.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no financial implications beyond those contained in the report and appendices.

### **5.2 Risk and Mitigations**

The major risks associated with this report are that the Council is not prudent with the decisions it makes in the use of SCA. There is also a risk that the Council fails to budget appropriately for the future costs associated with the SCA. These risks are mitigated by the Council's medium and longer term financial planning approach including the Long-Term Financial Strategy.

### **5.3 Integrated Impact Assessment**

It is anticipated there will be no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals contained in this report.

### **5.4 Sustainable Development Goals**

There are no significant effects on the economy, community or environment.

### **5.5 Climate Change**

No effect on carbon emissions are anticipated from the recommendation of this report.

### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on the rural area 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**

There are no changes to the Schemes of Administration or Delegation as a result of this report.

## **6 CONSULTATION**

- 6.1 The Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director People, Performance and Change, the Clerk to the Council and Corporate Communications are being consulted and any comments received will be communicated at the Council meeting.



**Approved by**

**Suzy Douglas**  
**Acting Chief Financial Officer**

**Signature .....**

**Author(s)**

Suzy Douglas	Acting Chief Financial Officer 01835 824000 X5881
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**Background Papers:**

**Previous Minute Reference:**

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

## **Finance Circular 10/2022**

Finance Circular 10/2022 (FC 10/2022) replaces the 2010 version that covered this area and permits the authority to apply a temporary flexibility for service concession arrangements entered prior to April 2022. The Circular sets out the accounting requirements and the options permitted for the recognition of repayments of the principal element of the lease component or the lease liability for the year and the temporary flexibility for SCAs entered prior to 1 April 2022. The options contained in FC 10/2022 are:

- Section 1: applying the Accounting Code with the reversal (i.e. elimination) of all statutory adjustments;
- Section 2.1: continuation of existing statutory accounting for all relevant SCAs, leases and similar arrangements, as originally set out in finance circular 4/2010;
- Section 2.2: SCAs only – this section permits an additional flexibility for SCAs recognised within an authority’s Annual Accounts prior to 1 April 2022. The new flexibility aligns the statutory adjustments to the asset life. With a choice of retrospective or prospective application. Section 2.1 continues to apply to leases and similar arrangements.

The impact of applying Section 2.2 to the Council’s SCAs is the subject of this report. This option applies the usual principles that depreciation and impairment will not be a charge to the General Fund. The charge to the General Fund will be a sum which recognises the repayment of the principal element of the finance lease component of the PFI liability, plus life cycle replacement capital expenditure. The Section 2.2 option permits the additional flexibility to calculate the statutory charge over the useful life of the asset which has been financed by the SCA rather than over the contract period, applying proper accounting practices.

Authorities have the flexibility to apply the change in the calculation of the statutory charge in either 2022/23 or 2023/24. This approach will apply to all credit arrangements going forward. The adopted approach must be applied across all such arrangements in line with the key accounting principle of consistency. There is an exception for schemes that have less than 5 years remaining; however this is not applicable in this case. The details of the permitted approach are contained in Appendix 2.

The unitary charge will continue to be paid to the contractor over the contract period. The guidance applies to principal and not to interest, service charge costs or grant. These will continue to be accounted for over the contract period.

If the 3rd option detailed in the bullet points above, applying Section 2.2 of FC 10/2022, is used and costs are reprofiled over the asset life, then there is a further choice on how to reprofile the principal elements:

- Equal Instalment of Principal, or
- Annuity method

A decision is required on which of these two options to apply and this is informed by the overall view on prudence.

## **Annuity Method – Consideration**

In determining whether to apply the flexibility to the accounting policy for SCAs, the Council needs to ensure it maintains a prudent approach and any changes are sustainable in terms of the Council's revenue budget.

The calculation of the repayment of the debt liability charges in this report have used the annuity method to calculate the revised repayments. This method best represents the consumption of the assets over their useful lives. The annuity method is used as standard practice in most PPP arrangements.

It is common practice for Scottish Authorities to use the annuity method for writing down the debt liability for borrowing to support capital expenditure. This methodology is currently applied within the Councils current Loans Fund repayment policy. The use of an annuity method for the writing down of the PPP debt liability therefore ensures a consistent approach for the writing down of all debt which is financing capital expenditure.

CIPFA supports the use of the annuity method for calculating charges for the repayment of the debt liability and states:

- The annuity method provides a fairer charge than equal instalments as it takes account of the time value of money, whereby paying £100 in 10 years' time is less of a burden than paying £100 now.
- The schedule of charges produced by the annuity method thus results in a consistent charge over an asset's life, considering the real value of the amounts when they fall due.
- The annuity method would then be a prudent basis for providing for assets that provided a steady flow of benefits over their useful life.

*CIPFA Practitioners' Guide to Capital Finance in Local Government 2019*

The following table shows how the annuity method results in a consistent charge over the asset's life. When comparing the net present values of each payment it results in the same payment and shows that the annuity method produces a consistent and even charge in today's terms based on an example £1m Capital Financing Requirement over 10 years when compared to the alternative Equal Instalment Plan methodology.

Year	Debt repayment – EIP basis £	NPV @3.5% £
1	100,000	96,618
2	100,000	93,351
3	100,000	90,194
4	100,000	87,144
5	100,000	84,197
6	100,000	81,350
7	100,000	78,599
8	100,000	75,941
9	100,000	73,373
10	100,000	70,892
	<b>1,000,000</b>	<b>831,661</b>

Year	Debt repayment – annuity basis £	NPV @3.5% £
1	85,241	82,359
2	88,225	82,359
3	91,313	82,359
4	94,509	82,359
5	97,816	82,359
6	101,240	82,359
7	104,783	82,359
8	108,451	82,359
9	112,247	82,359
10	116,175	82,359
	<b>1,000,000</b>	<b>823,588</b>

Calculation of the debt liability repayments using the annuity method is considered a prudent approach as it reflects the time value of money (i.e. the impact of inflation) as well as providing a charge that is better matched to how the benefits of the asset financed by borrowing are consumed over its useful life. That is, a method that reflects the fact that asset deterioration is slower in the early years of an asset and accelerates towards the latter years.

It is likely that the asset will continue to be used and consumed after the end of the period. This shows the benefit of an asset is not straight line as the Council may continue to use and access the asset after the original asset life period.

### **Useful Economic Life – Consideration**

The most appropriate asset life is considered to be 50 years which replicates the useful asset life of other similar type assets held on the Council's balance sheet i.e. schools. The Council's Loans Fund methodology use a Useful Economic Life (UEL) of 50 years when calculating the repayment of debt liability for borrowing to support capital expenditure for similar types of assets. The proposed application a UEL of 50 years for the three SCAs arrangements is therefore considered consistent with current council methodology.

### **Revenue Budget Implications – Considerations**

When determining 'a prudent policy' for SCAs the Council needs to consider the financial implications in the context of the financial forecast of the Council's Financial Plan. The Council's draft 2023/24 Financial Plan, which will be presented to Council on the 23 February 2023, reflects budget gaps in future years where costs exceed funding available.

Changing the repayments of the SCA debt liability produces significant retrospective savings and ongoing revenue savings in the near to mid-term. To achieve a prudent managed approach for the release of these savings and to align with the financial plan, it is proposed to allocate £9.093m of the retrospective savings created from the statutory one-off adjustment to "smooth" the identified budget gap over the next three years as to allow more time to achieve the permanent savings required.

After applying £9.093m of the retrospective saving to support the revenue budget in the short to medium term the remaining balance of £20m of the identified retrospective saving would remain as an allocated reserve within Council balances with a recommendation that the Council establishes a £20m transformation fund. This fund would be deployed over the next 5 years targeted at new technology, service changes and cost reductions to ensure the Council remains financially sustainable while maintaining service standards.

### **Impact of Applying Section 2.2 of FC 10/2022**

The calculation of the repayment charges of each SCAs or Public Private Partnership (PPP) scheme applying Section 2.2 of FC 10/2022, using the asset life annuity basis, compared to the current charges which are made over the contract period is shown in Appendix 3. The current repayment charges for each SCA have been compared against an annuity repayment profile based on the estimated useful asset lives for the each of the three SCA arrangements. The most appropriate asset life is considered to be 50 years which replicates the useful asset life of other similar type assets held on the Council's balance sheet i.e. schools. A one off retrospective saving of £29.093m would be achieved using this methodology.

In addition to the one off retrospective element, an in year saving would occur in scheduled debt repayments in 2023/24, if applied from 1 April 2023, of £3.562m followed by a reduction in the annual charges for further 15 years and then the continuation of the statutory charges after the SCA contracts have been repaid. Details of the profile of debt rescheduling is outlined in Appendix 3.

### **Accounting Treatment**

The statutory adjustment can be made as at 1 April in the year the revised repayments are applied. This option can be exercised only in 2022/23 or 2023/24 and can be applied retrospectively. Being a cumulative statutory adjustment there is no prior year restatement of statutory adjustments in the Annual Accounts. The statutory adjustment up to 31 March 2023 would require the following entries to be made:

- Debit Capital Adjustment Account; and
- Credit General Fund balance

Thereafter the statutory debt repayment in subsequent financial years will require the following entries to be made:

- Debit General Fund balance; and
- Credit Capital Adjustment Account

These adjustments would be reported through the Movement in Reserves Statement. The main impact of the reprofiling of the charges will be a reduction in the annual charges for 16 years and the continuation of the statutory charges after the SCA contracts have been repaid. The revised charges will represent the proper charge for the consumption of the assets over their useful lives.

<b>Section 2.2</b>	<b>Permitted approach</b>
<b>Options</b>	To calculate the annual charge for the principal repayments of the debt liability: <ul style="list-style-type: none"> <li>• the equal instalments of principal (EIP) or</li> <li>• the annuity method can be used.</li> </ul>
<b>Discount rate</b>	The discount rate to be applied should follow the requirements of the Accounting Code. The principal repayments should be discounted using the interest rate implicit in the contract if that rate can be readily determined. If that rate cannot be readily determined, the incremental borrowing rate of the local authority should be used.
<b>Applicable years</b>	Applied in 2022/23 or 2023/24 only. Can be either prospective or retrospective application.
<b>Cumulative statutory adjustment</b>	The cumulative statutory adjustment is from the Capital Adjustment Account to the General Fund and is made as at 1 April in (depending on the year applied) either 2022 or 2023. There is no prior year restatement of statutory adjustments. The SCA liability will continue to be written down by the contractual principal repayments.
<b>Applicable arrangements</b>	The flexibility must be applied consistently to all SCAs entered prior to 1 April 2022 except for contracts with less than 5 years until completion provided the annual charge is not materially different. A body should separately identify the value of each SCA. If not, the asset and liability must be restated at market values. The flexibility does not apply to leases or any similar arrangement.
<b>Governance</b>	The decision to apply the flexibility must be approved by the Full Council.
<b>Prepayments</b>	Where a prepayment was originally funded from a revenue or capital source, the body may revisit that decision and choose to fund the prepayment from borrowing. Borrowing should be recognised by a loans fund advance.

The summary position for the PPP scheme below shows the repayments of the £64m debt liability for the current 32-year contract period compared to the calculation based on a 50-year annuity and highlights the following:

<b>PPP (2008/09, £64m, 32 years)</b>				
	<b>Current Position</b>	<b>Principal repayments based on simple 50 year annuity @ 5.153%</b>		
<b>PPP principal repayments</b>	<b>Current repayment £000</b>	<b>Revised repayment £000</b>	<b>(Reduction) /cost £000</b>	<b>NPV 3.5% £000</b>
<b>pre 2023/24</b>	23,743	6,375	(17,369)	(17,369)
<b>2023/24</b>	1,734	621	(1,114)	(1,076)
<b>Yrs 2 to 5</b>	7,474	2,819	(4,655)	(4,136)
<b>Yrs 6 to 10</b>	12,375	4,422	(7,953)	(5,987)
<b>Yrs 11 to 25</b>	18,903	22,387	3,484	(122)
<b>Yrs 26 to 40</b>		27,607	27,607	9,578
<b>Total</b>	64,230	64,230		(19,112)

- the statutory adjustment for the cumulative repayment of debt liability up to 31 March 2023 is a £17.369m reduction.
- there are further annual reductions totalling £25.707m from 2023/24 to 2038/39 the year before the contract expires.
- in the financial years 2039/40 to 2057/58 the revised charges will result in a total of £43.076m higher costs than the current repayment profile (ranging from £1.471m in 2039/40 to £3.425m in 2057/58).
- the rescheduling of all the charges gives a NPV saving of £19.112m.

The summary position for the Kelso scheme shows repayments of the £23m debt liability for the current 26-year contract period, compared to the calculation based on a 50-year annuity and highlights the following:

<b>Kelso (2017/18, £23m, 26 years)</b>				
	<b>Current Position</b>	<b>Principal repayments based on simple 50 year annuity @ 4.404%</b>		
<b>PPP principal repayments</b>	<b>Current repayment £000</b>	<b>Revised repayment £000</b>	<b>(Reduction) /cost £000</b>	<b>NPV 3.5% £000</b>
<b>pre 2023/24</b>	7,101	879	(6,222)	(6,222)
<b>2023/24</b>	1,087	170	(917)	(886)
<b>Yrs 2 to 5</b>	3,804	758	(3,046)	(2,709)
<b>Yrs 6 to 10</b>	3,800	1,151	(2,649)	(2,042)
<b>Yrs 11 to 25</b>	6,933	5,396	(1,537)	(1,202)
<b>Yrs 26 to 40</b>		10,300	10,300	3,255
<b>Yrs 41 to 50</b>		4,070	4,070	942
<b>Total</b>	22,725	22,725		(8,862)

- the adjustment for cumulative debt repayment charges up to 31 March 2023 is a £6.222m reduction.
- there are further annual reductions totalling £10.346m from 2023/24 to 2042/43 when the contract ends.
- in the financial years 2043/44 to 2066/67 the revised profile will result in a total of £16.567m higher costs than the current repayment profile (ranging from £0.402m in 2043/44 to £1.084m in 2066/67).
- the rescheduling of all the charges gives a NPV saving of £8.862m.



The summary position for the Jedburgh scheme shows repayments of the £32m debt liability for the current 26-year contract period, compared to the calculation based on a 50-year annuity and highlights the following:

<b>Jedburgh (2019/20, £32m, 26 years)</b>				
	<b>Current Position</b>	<b>Principal repayments based on simple 50 year annuity @ 4.546%</b>		
<b>PPP principal repayments</b>	<b>Current repayment £000</b>	<b>Revised repayment £000</b>	<b>(Reduction) /cost £000</b>	<b>NPV 3.5% £000</b>
<b>pre 2023/24</b>	6,267	764	(5,503)	(5,503)
<b>2023/24</b>	1,744	213	(1,531)	(1,479)
<b>Yrs 2 to 5</b>	6,043	954	(5,089)	(4,529)
<b>Yrs 6 to 10</b>	5,748	1,458	(4,290)	(3,282)
<b>Yrs 11 to 25</b>	12,517	6,935	(5,582)	(3,329)
<b>Yrs 26 to 40</b>		13,509	13,509	4,266
<b>Yrs 41 to 50</b>		8,486	8,486	1,895
<b>Total</b>	32,319	32,319		(11,962)

- the adjustment for cumulative debt repayment charges up to 31 March 2023 is a £5.503m reduction.
- there are further annual reductions totalling £18.272m from 2023/24 to 2044/45 when the contract ends.
- in the financial years 2045/46 to 2068/69 the revised profile will result in a total of £23.775m higher costs than the current repayment profile (ranging from £0.567m in 2045/46 to £1.576m in 2068/69).
- the rescheduling of all the charges gives a NPV saving of £11.962m.

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## **CARAVAN SITE - VICTORIA PARK, SELKIRK**

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### **Report by Director Resilient Communities**

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## **SCOTTISH BORDERS COUNCIL**

**16 February 2023**

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### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to seek approval to invest in remediation and improvement work in advance of the caravan site at Victoria Park, Selkirk opening for business.**
- 1.2 Approval is being sought to allocate up to £150k from the Recovery Fund to enable remediation and development works to the site to allow it to re-open in time for the tourist season and with an aim to achieve a Visit Scotland 2-star accreditation.
- 1.3 The caravan/camping site located at Victoria Park, Selkirk is currently operated by Live Borders, along with the Leisure Centre which is in the same location.
- 1.4 For the duration of the Covid-19 pandemic, and in line with Scottish Government policy at the time, the site was designated as the Borders base for the gypsy travelling community. In the report to Council in June 2022 on Gypsy Traveller Site Provision Members were advised that remediation work would be undertaken to ensure the caravan site could re-open and operate.
- 1.5 The Victoria Park Action Group have ambitions for the future development of the site and these will form part of the place making work which is currently being undertaken in Selkirk. Recent Community Engagement events led by the Selkirk Community and facilitated by Scottish Futures Trust have also highlighted the need to improve and upgrade the site as part of a wider set of measures to improve the riverside area and provide the infrastructure to support tourism in the town and the wider area.
- 1.6 A summary of the key works needed to both remediate and improve the site to a Visit Scotland 2-star standard is set out in Table 2 of the report which proposes that funding of £150K is made available to enable them.

## **2 RECOMMENDATIONS**

### **2.1 It is recommended that Scottish Borders Council:**

**Approves an allocation of up to £150K from the Recovery Fund to fund the required works to enable the Caravan site at Victoria Park, Selkirk to reopen for the new season and aim for a 2-star rating from Visit Scotland.**

### **3 BACKGROUND**

- 3.1 The caravan/camping site located at Victoria Park, Selkirk is currently operated by Live Borders, along with the Leisure Centre which is in the same location.
- 3.2 For the duration of the Covid-19 pandemic, and in line with Scottish Government policy at the time, the site was designated as the Borders base for the gypsy travelling community.
- 3.3 In the report to Council in June 2022 on Gypsy Traveller Site Provision Members were advised that remediation work would be undertaken to ensure the caravan site could re-open and operate. Since then, Live Borders have been asked to assess the work required but in addition to look at the improvement works required to be of a quality standard that will achieve a Visit Scotland 2-star accreditation.
- 3.4 The community in Selkirk and the Victoria Park Action Group would like to see the work progressing at the site as soon as possible and for it to be open and welcoming guests from April.
- 3.5 The Victoria Park Action Group have ambitions for the future development of the site and these will form part of the place making work which is currently being undertaken in Selkirk. In parallel, South of Scotland Enterprise will provide a Business Adviser to work with all relevant parties in the short and medium term to identify opportunities for further improvements and options to develop the camping and caravanning visitor offer in Selkirk.
- 3.6 Recent Community Engagement events led by the Selkirk Community and facilitated by Scottish Futures Trust have also highlighted the need to improve and upgrade the site as part of a wider set of measures to improve the riverside area and provide the infrastructure to support tourism in the town and the wider area. While these ideas will be further developed as part of the local Place Making process, the works proposed in this report are both linked and consistent with this approach and address immediate priorities to get the site into a serviceable state ahead of the main tourist season. It is anticipated that, as a Place Plan for the Town and surrounding communities develops, further phases of works will be identified. Remediating and developing the site to a Visit Scotland 2-star standard provides a foundation for potential further phases.
- 3.6 Visit Scotland's accreditation is based on a range of quality assessment criteria under 8 sections which are highlighted in Appendix 1 and used to rate a facility as per the table below. As indicated cleanliness is critical and must score a minimum of 60% otherwise no accreditation will be awarded regardless of other works and investment.

	<b>1-Star</b> "Acceptable"	<b>2-Star</b> "Good"	<b>3-Star</b> "Very Good"	<b>4-Star</b> "Excellent"	<b>5-Star</b> "Exceptional"
<b>Overall %</b>	34 - 47%	48 - 59%	60 - 74%	75 - 86%	87 - 100%
<b>Cleanliness</b>	60 - 74%	60 - 74%	60 - 74%	75 - 86%	87 - 100%
<b>No section to score less than</b>	34%	34%	48%	60%	75%

3.7 Visit Scotland’s minimum requirements in the context of the Victoria Park site are set out in Appendix 2. The proposed remedial and development works aim to enable a 2-star accreditation.

3.8 To enable the site to be ready for the Tourist season the desire is to have the works completed by 1<sup>st</sup> of April. This will be a challenging timescale and requires the project to commence at the earliest opportunity.

## **4 PLANNED WORKS**

4.1 A summary of the key works needed to remediate and improve the site to a standard that can achieve Visit Scotland 2-star accreditation is set out in Table 2 below.

<b>Refurbishment Area</b>	<b>Works</b>
Shower Block	Full refurbishment and redecoration of the Shower Block including installation of heating.
Sluice/ Chemical toilet	Full refurbishment/re-instatement of sluice and chemical toilet facility
Electrical Supply	New electrical supply to pitches
Disabled Access	New disabled access ramp
Hard standing	Hard standing created for 10-12 pitches. Adjacent to the electrical power supplies
Line-marking	Line marking of the car park area to designate vehicle parking for pitches (e.g.) bays relined and re-marked with pitch number relating to pitch parking spot
Entrance gate	New entrance gate installed. Height restriction, electronically controlled
Signage & Lighting	Improved signage
	Improved lighting in the car park
Booking system/ Remote entry	New booking system and related processes in place to allow access when Selkirk Leisure Centre is not open
Fire Safety	Fire cabinet, extinguisher, etc....
Water Spouts/spigots	Water tap in addition to supply at sluice area.
Other Facilities	Installation of picnic tables and BBQ areas

4.2 Estimated capital costs for the above works have been prepared by Live Borders and, based on this, it is proposed that funding of up to £150K is made available to enable them.

4.3 The Victoria Park Action Group and the community of Selkirk are looking to carry out additional work in and around the site to make it more attractive and welcoming for visitors to the town.

## **5 IMPLICATIONS**

### **5.1 Financial**

The paper seeks approval from Members to allocate up to £150k from the Recovery Fund to progress the works outlined at section 4.1 to successfully open the caravan site for business.

### **5.2 Risk and Mitigations**

There is a risk that the planned works will take longer than is currently estimated to complete which will delay the opening of the site. Discussion took place with the Victoria Park Action Group about this and it was agreed that the work required is critically important and should be completed before opening even if that pushed back the opening date to May 2023.

There is a risk that the actual costs of the works exceed the estimates. This will be closely monitored.

### **5.3 Integrated Impact Assessment**

An IIA checklist has been completed. The works aim to improve disabled access to the Shower Block at the site and associated facilities within the building.

### **5.4 Sustainable Development Goals**

The remediation and improvement works will be undertaken using local skills and trades wherever possible

### **5.5 Climate Change**

The proposals in the report will enhance the local amenities and the climate change checklist will be considered as part of the tender process.

### **5.6 Rural Proofing**

This proposal will have a positive effect on the community of Selkirk by increasing visitors to the town and maximising the use of the prominent site.

### **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 are required to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

## **6 CONSULTATION**

- 6.1 The Acting Chief Financial Officer, the Acting Chief Corporate Governance 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 received will be reported verbally to members.

**Approved by**

**Jenni Craig**

**Director Resilient Communities**

**Author(s)**

Name	Designation and Contact Number
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**Background Papers:** Nil

**Previous Minute Reference:** Nil

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**Visit Scotland - areas that are measured for Quality Score: GREEN = more relevant to Victoria Park; PINK = less relevant to Victoria park**

Cleanliness - areas scored	Toilet and washing facilities - areas scored	Touring, motorhome and camping pitches and facilities - areas scored	Park grounds - areas scored	Park facilities - areas scored	Recreation, sport and leisure - areas scored	Reception and reception services - areas scored	Launderette and drying room
Reception	Exterior	Pitch layout and spacing	Lighting	Shops	Exterior	Exterior	Exterior
Shop	Décor	Pitch quality and maintenance	Signage	Exterior	Facility (indoors)	Décor and flooring	Décor and flooring
Bar, Club, Restaurant and Take-Aways	Flooring	Electric hook-ups	Fire points	Décor and flooring	Equipment (indoors)	Fixtures, fittings and furnishings	Lighting and ventilation
Launderette, drying room	Lighting	Water points and grey water disposal	Road surfaces and paths	Fixtures and fittings	Layout and ease of use (indoors)	Lighting	Fixtures and fittings
Public WCs. Accessible bath/shower room, family/baby change facilities	Heating and ventilation	Chemical Waste disposal points	Refuse disposal and recycling provision	Lighting	Facility (outdoors)	Space, comfort and ease of use	Laundry equipment
Recreation and Leisure	Fixtures, fittings and sanitary ware (WCs and basins)	Motor Vehicle Waste Disposal Points (MVWDP)	Picnic tables, BBQs, campers' kitchen etc.	Space, comfort and ease of use	Equipment (outdoors)	Tourist information	Space, comfort and ease of use
Campers' kitchen and dining, picnic tables, BBQs	Fixtures, fittings and sanitary ware (showers)	Washing up facilities	Landscaping	Bar, clubs, restaurants and take-aways	Layout and ease of use (outdoors)	Welcome and arrival procedures and guest information	
Park grounds	Space, comfort and ease of use		Ancillary or unused buildings maintenance	Exterior			
Refuse and recycling areas			Grounds maintenance	Décor and flooring			
Toilet and shower facilities (male)			Park layout	Fixtures, fittings and furnishings			
Toilet and shower facilities (female)			Car parking and late arrival facility				
Touring facilities							

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## Appendix 2: Minimum Requirements detail (where most relevant to Selkirk Caravan Park)

Minimum Visit Scotland Quality requirements - detail
The main park entrance and reception area should be clearly identified and illuminated
For the safety of guests, all car parks should be adequately lit
Emergency notices must be prominently displayed giving details of 24 hour emergency park contact.
The park must have reception arrangements at appropriate times from which guests can be directed to their caravan holiday home/pitch and where advice and assistance can be obtained if necessary
High standards of cleanliness to be evident in all areas of the park with particular attention given to all toilet and shower facilities irrespective of whether they have been used recently or not
Regular monitoring throughout the day of all facilities to ensure high standards of cleanliness are maintained
All toilet and shower facilities must be adequately lit, internally and externally, during the hours of darkness whilst the park is open
An adequate supply of hot and cold water must be available in all 'in use' shower and toilet blocks at all reasonable times
All shower and toilet facilities in use during the period <b>1 October to 31 March</b> must be provided with adequate heating
Hair drying facilities to be provided, as a minimum, in female facilities
Shaver sockets to be provided, with mirror adjacent, in all male facility blocks
If baby change facilities are provided these must be accessible to all
Where accessible shower and toilet facilities are provided, they must be of a comparable facility range and quality to other shower and toilet facilities on the park
All shower cubicles should have a non-slip shower base or non-slip shower mats
The park must have a minimum of six pitches
The site entrance and all principal access roads within the site to be adequately and appropriately (relative to type, size and location) lit during the hours of darkness
The park must have suitable firefighting equipment and warning notices consistent with current statutory obligations

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## **NON DOMESTIC RATES - EMPTY PROPERTY RELIEF POLICY**

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### **Report by Director of Resilient Communities**

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## **Scottish Borders Council**

**16 February 2023**

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### **1 PURPOSE AND SUMMARY**

- 1.1 This report seeks approval for a temporary "Non Domestic Rates - Empty Property Relief Policy" to commence from 1 April 2023.**
- 1.2 Currently all Local Authorities administer Empty Property Relief on behalf of the Scottish Government. The policy is required as Empty Property Relief is being devolved by Scottish Government to Local Authorities with effect from 1 April 2023. Part 11 of the Community Empowerment (Scotland) Act 2015 gives Local Authorities the power to introduce localised schemes for the reduction and remission of Non Domestic Rates.
- 1.3 The attached policy (Appendix 1) has been designed to mirror the current provisions as set by the Scottish Government for Empty Property Relief and this will allow time for consultations to take place both within the Council and with external stakeholders such as local businesses.
- 1.4 As at 1 September 2022, 480 non domestic rates properties were receiving Empty Property Relief.
- 1.5 A detailed review will take place during 2023/24 and a further report will be brought to Council setting out recommendations for the relief from April 2024.

### **2 RECOMMENDATIONS**

- 2.1 **I recommend that Scottish Borders Council:-**
  - (a) approve the Empty Property Relief Policy, as detailed in Appendix 1, and agrees that this will come in to effect from 1 April 2023 until 31 March 2024;and**
  - (b) agrees that the Policy will be reviewed prior to 1 April 2024, with officers consulting widely over any future changes, and a further report will be brought back to Council for further consideration prior to that date.**

### 3 BACKGROUND

- 3.1 Currently all Local Authorities administer Empty Property Relief on behalf of the Scottish Government. This is done using various pieces of primary and secondary legislation.
- (a) Sections 24 and 24A to the Local Government (Scotland) Act 1966
  - (b) Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994
  - (c) Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1998
- 3.2 The Community Empowerment (Scotland) Act 2015 allows Local Authorities to introduce localised rates relief schemes.
- 3.3 The current empty relief applied to empty rateable subjects is as follows:
- (a) Where a property is unoccupied and is an industrial building with no retail element, an award of 100% relief applies for the first six months of becoming unoccupied and thereafter 10% relief is awarded until the property is reoccupied (short periods of occupation of less than 6 weeks are ignored).
  - (b) 100% empty property relief can be awarded on the following categories until the property is re-occupied:
    - (i) Properties with a Rateable Value less than £1,700
    - (ii) Properties where the rateable occupier is a trustee for sequestration, liquidation or an executor
    - (iii) Properties which are under compulsory purchase order
    - (iv) Properties which have a Preservation Order, Listed Buildings and Ancient Monuments
    - (v) Where the owner is prohibited by law from occupying the property
    - (vi) Properties which are under compulsory purchase
    - (vii) Industrial lands and heritage
    - (viii) The person entitled to possession of a property due to being the trustee under a trust deed for creditors or sequestration
    - (ix) Property which is vacant due to action by the Crown, a Local Authority or a Public Body
    - (x) Properties where the liable party is a company being wound up in terms of the Insolvency Acts.
    - (xi) Properties that were last occupied by a charity.
  - (c) All other empty rateable subjects are eligible for relief of 50% for the first three months becoming unoccupied after which time the level of relief awarded will reduce to 10%.

- 3.4 As at 1 September 2022, there were 8,802 rateable entries on the Valuation Roll with 480 of these having an award of empty property relief.
- 3.5 Table 1 below demonstrates a breakdown of the empty property relief as at 1 September 2022 in respect of the 2022/23 financial year. This is a snapshot of the awards in place at that time but the position continually changes throughout the year.

**Table 1**

<b>Type of Reduction</b>	<b>Number of Awards</b>	<b>Value of Relief Awarded (£)</b>
Empty Property Relief - 10% or 50%	132	76,032
Empty Property Relief – 100%	52	127,928
Exemption - 100%	296	713,253
	<b>480</b>	<b>917,213</b>

- 3.6 Table 2 below provides a more detailed breakdown of the 100% Empty Property Relief and Exemptions detailed above in Table 1.

**Table 2**

<b>Type of Reduction</b>	<b>Number of Awards</b>	<b>Value of Relief Awarded (£)</b>
New Build 100% Relief	5	69,341
Empty Property Relief	47	58,587
Rateable Value under £1,700	151	53,739
Listed Buildings	141	647,044
Executor Appointed & Sequestrated	4	12,470
	<b>348</b>	<b>841,181</b>

- 3.7 Like all other local authorities, from 1 April 2023 Scottish Borders Council is required to develop a policy on reliefs available to empty rateable subjects contained within the Assessment Roll. The proposed policy is detailed in full in Appendix 1 to this report and has been designed to mirror the current provisions as set by the Scottish Government for Empty Property Relief. This ensures there are no further changes for businesses at this challenging time and will a full review, with appropriate engagement and consultation during 2023/24.

## **4 SCOTTISH GOVERNMENT FUNDING**

- 4.1 The Scottish Government has made an annual fixed sum available for the next three years amounting to £105 million across Scotland.
- 4.2 The funding is greater than the total awards made for empty relief above however this is a fixed amount for each of the three years and does not factor the following:
- (a) The rate poundage set by the Scottish Government each year may impact in the amount of relief awarded, i.e. if the rate poundage increased, this will directly increase the relief award.
  - (b) The impact of revaluation of all non-domestic properties from 1 April 2023 may also impact the level of relief awarded.
  - (c) Any future changes in the economy which may increase or decrease the number of empty properties.
- 4.3 Although empty property relief is being devolved and funding transferred from Scottish Government to Local Authorities, any other reduction in rates allowed via the Community Empowerment Act is not subsidised by the Scottish Government. This means the cost of any other schemes introduced by Scottish Borders Council using this Act, must be met in full by the Local Authority.

## **5 ADMINISTRATION**

- 5.1 As the report is recommending no amendments to the conditions for applying relief, there are only small amendments to the administration of the process in terms of reporting relief to Scottish Government and on how Scottish Borders Council will deal with written-off debt where it relates to unoccupied rates charges.
- 5.2 There will be no changes to businesses who require relief. As stated in the policy, we intend to transfer existing relief on 31 March 2023 to the new local scheme and allow the balance of any time limited relief already awarded to continue. All new requests for empty property relief will be by application in the same way as businesses apply presently.
- 5.3 Another key factor which is currently under development by Scottish Government is anti-avoidance measures to be moved onto a statutory basis. The Scottish Government took powers under the Non-Domestic Rates (Scotland) Act 2020 to lay legislation to stop anti-avoidance schemes currently in operation. It is hoped that the appropriate statutory instrument will be laid before Scottish Parliament before 31 March 2023 as these will be essential in ensuring that only genuine arrangements are awarded relief going forward.



## **6 REVIEW OF POLICY**

- 6.1 Over the next 12 months, officers intend to review the relief policy looking at the following areas :
- (a) Are time limited relief awarded at the appropriate percentage relief?
  - (b) Are current time scales for time limited relief appropriate?
  - (c) Are the classes of indefinite 100% relief still appropriate or should Scottish Borders Council consider introducing changes to these indefinite relief classes?
  - (d) Any other changes identified during the review.
- 6.2 If any changes are proposed, these will be brought to this Council for discussion and approval during 2023-24.
- 6.3 Stakeholder engagement in to the review will be carried out across internal and external stakeholders as well as engagement at a national level using existing professional associations, CoSLA and Scottish Government colleagues.

## **7 IMPLICATIONS**

### **7.1 Financial**

Local Government Finance Circular No. 11/2002, received 10 January 2023, provides £105m nationally for the devolution of Non-Domestic Rates Empty Property Relief. The Council share of this is £1.178m.

### **7.2 Risk and Mitigations**

The Council must implement a charging policy for empty non-domestic rates otherwise full rates will be charged on all empty non domestic rates properties from 1 April 2023.

The risks to Scottish Borders Council are as follows:

- (a) The number of empty dwellings exceeds the funding received. To mitigate this risk, we have an agreement that where this happens and a 3% threshold above funding is reached, LA's can approach the Scottish Government for a redetermination of funding.
- (b) The rate poundage set by the Scottish Government each year may impact in the amount of relief awarded, i.e. if the rate poundage increased, this will directly increase the relief award. There is nothing we can do to mitigate this. We can consider this as part of the 2023/24 policy review should this occur.
- (c) The impact of revaluation of all non domestic properties from 1 April 2023 may also impact the level of relief awarded. There is nothing we can do to mitigate this. We can consider this as part of the 2023/24 policy review should this occur.
- (d) Any future changes in the economy which may increase or decrease the number of empty properties. There is nothing we

can do to mitigate this. We can consider this as part of the 2023/24 policy review should this occur.

### 7.3 **Integrated Impact Assessment**

An Integrated Impact Assessment was completed and found to have no adverse impact on the groups detailed.

### 7.4 **Sustainable Development Goals**

Each of the UN Sustainable Development Goals has been considered and in conclusion this policy will not make a difference to any of these.

### 7.5 **Climate Change**

There are no climate change implications.

### 7.6 **Rural Proofing**

The rural proofing checklist has been completed and there will be no challenges presented by rural circumstances.

### 7.7 **Data Protection Impact Statement**

A Data Protection Impact Assessment is not required as there are no changes to existing service delivery.

### 7.8 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to the scheme of administration or delegation.

## 8 **CONSULTATION**

- 8.1 Acting Chief Financial Officer, Acting Chief Officer Corporate Governance, the Chief Officer Audit and Risk, the Director People Performance & Change, the Clerk to the Council and Corporate Communications.

### **Approved by**

**Name** Jenni Craig **Title** Director Resilient Communities

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**Background Papers:** N/A

**Previous Minute Reference:** N/A

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## 1. INTRODUCTION

- 1.1 The Scottish Government devolved the right to award relief on empty non-domestic properties to Local Authorities from 1 April 2023.
- 1.2 This policy sets out the criteria for awarding relief on empty non-domestic properties, ending relief and the process for appealing a decision from 1 April 2023.
- 1.3 In all cases, staff will act in accordance with this policy and treat citizens fairly.

## 2. WHY WE NEED A POLICY

- 2.1 The policy is required to be put in place to allow relief to Non-Domestic Rates for Empty Rateable Subjects. Section 19 to the Non-Domestic Rates Act (Scotland) 2020 repeals the existing provisions for award of relief (Section 24 to the Local Government (Scotland) Act 1966).
- 2.2 This policy is introduced in terms of Section 3A to the Local Government (Financial Provisions etc) (Scotland) Act 1962 as amended by Section 140 to the Community Empowerment (Scotland) Act 2015.
- 2.3 Section 3A States:
  - 2.3.1 “Schemes for reduction and remission of rates
    - a. This section applies in relation to rates leviable for the year 2015-16 and any subsequent year.
    - b. A rating authority may, in accordance with a scheme made by it for the purposes of this section, reduce or remit any rate leviable by it in respect of lands and heritages.
    - c. Any reduction or remission under subsection (2) ceases to have effect at such time as may be determined by the rating authority.
    - d. A scheme under subsection (2) may make provision for the rate to be reduced or remitted by reference to—
      - (i) such categories of lands and heritages as may be specified in the scheme,
      - (ii) such areas as may be so specified,
      - (iii) such activities as may be so specified,
      - (iv) such other matters as may be so specified.
    - e. Any reduction or remission under subsection (2) ceases to have effect on a change in the occupation of the lands and heritages in respect of which it was granted.
    - f. Before exercising the power conferred by subsection (2), or amending a scheme made under that subsection, the rating authority must have regard to the authority’s expenditure and income and the interests of persons liable to pay council tax set by the authority.”.

- 2.4 It is essential for the Council to demonstrate that it carries out administration of empty property relief on non-domestic properties efficiently, effectively and fairly. By doing this the Council:
  - a. helps reduce the cost of Non-Domestic Rates while a property is empty;
  - b. demonstrates a provision of a quality service to customers.
  - c. evidences fairness in awarding relief

## 3. AIMS OF THE POLICY

- 3.1 The main aim of this policy is to set out how Scottish Borders Council will interact with Non-Domestic Rates payers in the administration of empty property relief and.
  - 3.1.1 Ensure that all staff involved in awarding empty property relief operate a fair and consistent process;
  - 3.1.2 Demonstrate the Council’s commitment to the delivery of quality services to our customers;
  - 3.1.3 Minimise losses to the Council from incorrectly awarding empty property relief.

## 4. EMPTY PROPERTY RELIEF ADMINISTRATION

- 4.1 Empty property relief will be awarded in respect of all applications that meet the eligibility criteria specified below, and fulfil all the requirements of the application process.
- 4.2 In order to be considered for empty property relief, an application must be fully completed and submitted with the appropriate supporting evidence. Applications are assessed by Customer Advice and Support Service staff. Customer Advice and Support Service staff are responsible for awarding and ending relief as well as administering any appeals and dealing with enquiries that arise.
- 4.3 Scottish Borders Council will automatically extend all existing reliefs and exemptions which are in place on 31 March 2023 and continue to qualify under the revised conditions. The balance of the award period will be applied under this policy.
- 4.4 For new awards of relief, the rateable occupier (or other who are held liable) will need to [make an application](#) to Scottish Borders Council for the relief to be applied.

## 5. EMPTY PROPERTY DEFINITION

- 5.1 Empty properties are defined as those rateable entries which are not currently occupied and in use. Part occupied properties are not included in this policy as they are covered by Section 24A to the Local Government Scotland Act (1966).

## 6. RATES OF EMPTY PROPERTY RELIEF

- 6.1 Empty property relief is awarded when a land and heritage is unoccupied. Relief can be awarded as an exemption or reduction at the following rates.
- 6.1.1 50% reduction can be awarded for the first three months of the property being empty, after which time, the level of reduction awarded will reduce to 10%.
- 6.1.2 For empty industrial properties with no retail element, 100% reduction can be awarded for the first six months of the property being empty, after which time the level of reduction awarded will reduce to 10%. Industrial properties (other than retail lands and heritages), are properties which have been constructed or adapted for business use for one or more of the following purposes:
- manufacturing, repair or adaption of goods or materials
  - storage of such goods
  - work or processing of such materials
  - generation of electricity
- 6.1.3 The following categories of property are entitled to 100% exemption until reoccupied:
- properties with Rateable Value less than £1,700;
  - properties unoccupied due to death or insolvency;
  - properties which are under compulsory purchase order;
  - Properties which have a Preservation Order, Listed Buildings and Ancient Monuments;
  - Where the owner is prohibited by law from occupying the property (e.g. health and Safety at Work Acts prevents occupation due to inadequate fire escapes);
  - Property is vacant due to action by the Crown, a Local Authority or a Public Body (e.g. subject to a Planning condition);
  - Properties that were last occupied by a charity.
- 6.1.4 Properties which had been classed as unoccupied and become occupied for less than 6 weeks can continue to be awarded 100% exemption.

6.2 The person or company entitled to use the property will be the person liable to pay the bill.

## 7. UNDERUSE OR NON-USE OF LANDS AND HERITAGES

7.1 Where a ratepayer receives a reduction other than unoccupied property relief under section 24A and 24B of the Local Government (Scotland) Act 1966 Act, we can consider under use or non-use, using the following 2 conditions:

7.1.1 the lands and heritages are not being used (suggesting that any unoccupied property relief that is available in respect of the lands and heritages ought to apply instead of whatever relief is being received).

7.1.2 the lands and heritages are being used only minimally, meaning the amount of relief being received is greater than would be received if any available unoccupied property relief applied, and the ratepayer's main reason for not leaving the lands and heritages empty is to obtain that greater amount of relief.

7.2 Where the lands and heritages are not being used or there is a significant difference between the actual use of the lands and heritages in comparison to the extent which they could reasonable be used, rates relief will not apply in respect of the lands and heritage.

## 8. BACKDATING

8.1 An application for empty property relief can be backdated to the start of the financial year in which the application is made, provided the organisation satisfied the requirements at that time but only for the prior period during which the requirements continue to be met.

8.2 Applications for the immediately previous financial year may be considered provided sufficient evidence is submitted in support of the application however the decision whether to award is at the discretion of Council Officers.

## 9. RECONSIDERATIONS AND APPEALS

9.1 Once an application has been processed, the ratepayer will be notified in writing of the decision. If the ratepayer disagrees with the decision, they may ask for a reconsideration in the first instance by writing to the Customer Advice and Support Service Manager.

9.2 Reconsiderations must be made in writing within 28 days of the decision being notified.

9.3 If that reconsideration is unsuccessful, the ratepayer may then make an appeal to the Director of Resilient Communities where the appeal will be considered at an internal appeal hearing by a panel of no less than three senior Council Officers.

9.4 The appeal to the Director of Resilient Communities must be made in writing within 6 weeks of the outcome of the reconsideration decision.

9.5 An internal appeals hearing will take place within 2 months of the date of the appeal submission.

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## **SOCIAL WORK NON-RESIDENTIAL CHARGING**

**Report by Director, Social Work & Practice**

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### **SCOTTISH BORDERS COUNCIL**

**16 February 2023**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report seeks approval to pause the evaluation of impact on the introduction of a single financial assessment process, equal charge in Extra Care Housing and the introduction of equal charging in Sheltered Housing along with the 5% taper rate increase for financial year 2023/24.**
- 1.2 This report provides the Council with background information on non-residential charging policy, specifically relating to clients in receipt of Housing Support in Extra Care and Sheltered Housing developments and all people who receive a charge.
- 1.3 The Council is asked to consider not proceeding with previous Council charging decisions and scheduled annual uplifts in light of the cost of living crisis. This is with the intention of protecting vulnerable people from additional expenditure and related anxiety during these uncertain times. There is a reputational risk by carrying out an evaluation at this time that may not materially change the Charging Policy, but will certainly increase anxiety.

#### **2 RECOMMENDATIONS**

- 2.1 **It is recommended that Scottish Borders Council agrees to:**
  - (a) pause the evaluation of impact on the introduction of a single financial assessment process, equal charge in Extra Care Housing and the introduction of equal charging in Sheltered Housing;**
  - (b) pause the 5% Taper rate increase for financial year 2023/24; and**
  - (c) delegate authority to the Director Social Work and Practice to keep under review and monitor planned increases in Social Work non-residential charging in future years, in the context of the ongoing cost of living crisis.**

### **3 NON-RESIDENTIAL CHARGING**

3.1 The Council approved eight actions at the full council meeting on the 25<sup>th</sup> November 2021. Five of these actions have been completed and are detailed in Annex 1. Officers have carried out a desktop exercise and engaged with key partners to assess the impact of the three outstanding Council approved actions (b, c & d) in Annex 1:

- An evaluation of impact on the introduction of a single financial assessment process in specific chargeable matters e.g. housing support;
- An evaluation of options for introducing an equal charge, with appropriate individual Financial Assessment, across current and future Extra Care Housing developments;
- The introduction of equal charging, with appropriate individual Financial Assessment, across all current and future Sheltered Housing (housing support) developments. There is a scheduled increase to the taper rate that can be paused if they Council wishes to do so given current cost of living context.

3.2 The desktop evaluation of the financial assessment process, and the evaluation and introduction of average charging in charging for Housing Support and Extra Care Housing is complete and provides a hypothetical impact across all people affected. The next stage would be to engage individually with all those impacted parties and carry out individual financial assessments to establish what people would actually pay if the Council chose to implement it. Recommendation at paragraph 2.1 (a) aims to avoid the potentially stressful process with no other purpose than to further evaluate the likely impact.

3.3 The taper rate increase of 5% has already been applied for the current financial year (2022/23). It was previously proposed to increase this by a further 5% in 2023/24. It is now recommended at paragraph 2.1 (b) to pause this increase in light of the current cost of living crisis.

### **4 IMPLICATIONS**

#### **4.1 Financial**

(a) Any charge as a result of implementing a change to the financial assessment process will have a potential impact on service users. In particular vulnerable groups who are in receipt of Attendance Allowance or Personal Independence Payments may be adversely affected.

(b) In term of consideration of an average charge for Extra Care Housing and Sheltered Housing, from an initial analysis (desktop exercise), it is likely that this would be cost neutral to the Council, in as far as some individuals would pay more and some pay less depending on the venue. However until full individual client assessments are carried out, this cannot be confirmed. We do however recognise that the process of individual assessments can be stressful and raise anxiety to some individuals in our community.



- (c) The planned taper rate increase will impact on people currently paying, as it increases the percentage of disposable income they pay as established by a financial assessment. The planned taper rate increase was agreed by Council on a 5% annual basis. There are no financial implications on the 2023/24 revenue budget as the increase in income was not previously budgeted due to uncertainties around increase in the rate, therefore removing the increase in 2023/24 has no cost attached.
- (d) The proposed housing support uplift would be applied based on an average of all Registered Social Housing rent increases in 2022-23. A 4% uplift in line with previous Council Management Team recommendations, would have a potential increase in income for Scottish Borders Council.

#### 4.2 **Risk and Mitigations**

- (a) The reputational risk of engaging already hard pressed, vulnerable tenants, albeit in an evaluation to consider equity, will likely be perceived as the Council attempting to increase costs. While there will be people who will experience a reduction in their charges, the majority will experience an increase, which will only be known fully after direct engagement and undergoing an individual financial assessment.
- (b) There is also a positive reputational opportunity by not implementing the scheduled taper rate increase for 2023/24.
- (c) It is recognised that the Scottish Government announced on the 6<sup>th</sup> of September 2022 a rent freeze for housing providers and it is noted that if Scottish Borders Council were to progress with some of these actions it could be perceived that the Council were directly impacting upon vulnerable people at the time of a cost of living crisis.

#### 4.3 **Integrated Impact Assessment**

The Integrated Impact Assessment has been updated to incorporate the findings of the desktop exercise. This identifies that those people receiving Personal Independence Payment (PIP) and Attendance Allowance are more likely to be impacted by the proposed change to the financial assessment process.

#### 4.4 **Sustainable Development Goals**

By pausing the increase in the taper rate, this ties in with UN SD Goal 1 (End poverty in all its forms everywhere) by retaining local income; and UN SD Goal 11 (Make cities and human settlements inclusive, safe, resilient and sustainable) by working to make access to affordable housing attainable. Consider each of the UN Sustainable Development Goals (complete the checklist) and decide whether your project/action plan/recommendations will make a difference to any of these. If the answer is yes, then you need to comment here on the specific goals and what the impact/difference is likely to be. If there is no impact/difference, then say so, but bear in mind the Goals are wide ranging – complete the checklist!

#### 4.5 **Climate Change**

The proposals in this report will not have any direct impact either positive or negative on climate change.

#### 4.6 **Rural Proofing**

The proposals in this report do not impact specifically on those living in a rural area as the policy will be applied across the Borders.

#### 4.7 **Data Protection Impact Statement**

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

#### 4.8 **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.

### 5 **CONSULTATION**

- 5.1 The Acting Chief Financial Officer, the Acting Chief Officer Corporate Governance, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

#### **Approved by**

**Name - Stuart Easingwood**

**Title – Director Social Work & Practice**

#### **Author(s)**

Name	Designation and Contact Number
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**Background Papers:** N/A

**Previous Minute:** Scottish Borders Council – 25 November 2021

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## Annex 1

	<b>Council Approved Actions (8)</b>	<b>Supporting Information</b>
<b>a</b>	the continuation of a co-production approach to the development of the new Charging policy to be used from the 1 <sup>st</sup> April 2022;	<p>A completely refreshed co-produced policy has been in place since beginning of April 2022</p> <p><a href="https://www.scotborders.gov.uk/download/downloads/id/337/charging_policy_2022-23.pdf">https://www.scotborders.gov.uk/download/downloads/id/337/charging_policy_2022-23.pdf</a></p> <p>An additional task to produce an easy read policy has just been completed and will be circulated for final review before circulation</p>
<b>b</b>	an evaluation of impact on the introduction of a single financial assessment process in specific chargeable matters eg Housing Support;	<p>A desktop exercise has been carried out along with discussions with Registered Social Landlords. During these discussions the reputational risk was highlighted. Further details as follows:</p> <p>Housing support is provided in Sheltered Housing complexes. At present tenants who receive Housing Benefit (HB) do not go through the same financial assessment as those who are not recipients of HB (NB net effect – disability benefits are disregarded in the HB process, but not with the SW financial assessment process).</p>
<b>c</b>	an evaluation of options for introducing an equal charge, with appropriate individual Financial Assessment, across current and future Extra Care Housing (ECH) developments;	<p>A desktop exercise has been carried out along with discussions with Registered Social Landlords. During these discussions the reputational risk was highlighted. Further details as follows:</p> <p>ECH provides onsite 24 hr support. At present each individual site has a unique charge calculated by the overall eligible cost divided by the number of properties.</p>
<b>d</b>	the introduction of equal charging, with appropriate individual Financial impact assessment, across all current and future Sheltered Housing (housing support) developments;	<p>A desktop exercise has been carried out along with discussions with Registered Social Landlords. During these discussions the reputational risk was highlighted. Further details as follows:</p> <p>Housing support provided in Sheltered Housing complexes. At present each individual site has a unique charge calculated by the overall eligible cost divided by the number of properties.</p>
<b>e</b>	the linking of the Direct Payment rate to the Scottish Living Wage ;	The Direct Payment Rate has now been linked to the Scottish Living Wage and amendments made. This will no longer be within the scope of the Annual Charging policy and will now come under the remit of the SDS Working Group
<b>f</b>	the linking of the Short Breaks rate paid to unpaid carers to the Residential costs set by the Scottish Government;	The Short Breaks Rate has now been linked to the residential costs set by the Scottish Government. This will no longer be within the scope of the Annual Charging policy and will now come under the remit of the SDS Working Group
<b>g</b>	A 5% increase in the taper rate for 2022/23 and a 5% annual increase until 90% is reached;	This has now been applied for current and future financial years and has been highlighted for discussion in this paper.
<b>h</b>	The linking of meals at home charges to the national Excel contract.	Invoices were sent out with the new charge for microwaves and freezers from 1 <sup>st</sup> April 2022. The Apetito contract has been agreed by Scotland Excel and Apetito and has been applied locally from 9 <sup>th</sup> January 2023.





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## **Duty of Candour Annual Report 2021/22**

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### **Report by Director Social Work & Practice**

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## **Scottish Borders Council**

**16 February 2023**

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### **1 PURPOSE AND SUMMARY**

- 1.1 This report seeks approval for the duty of Candour report for financial year 2021/22. It also seeks approval for an updated Duty of Candour procedure.**
- 1.2 The Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 introduced a Duty of Candour procedure. It applies to all organisations that provide Health Services, Care Services or Social Work services in Scotland
- 1.3 Duty of Candour is a procedure that organisations providing Health Services, Care Services and Social Work services in Scotland are required to follow where there has been an unintended or unexpected incident that results in death or harm. Each statutory body should have a procedure to manage the obligations and to publish an annual report as soon as is reasonably practicable after the end of that financial year. Sadly an adult in our care passed away and in light of this and the application of the Duty of Candour procedure, we have reviewed our procedures and made changes where applicable to ensure we learn from this.

### **2 RECOMMENDATIONS**

#### **2.1 I recommend that the Scottish Borders Council:-**

- (a) approves the updated Duty of Candour procedure, as detailed in Appendix 1; and**
- (b) approves the Duty of Candour report 2021/22, as detailed in Appendix 2.**

### **3 BACKGROUND**

- 3.1 The Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 introduced a Duty of Candour procedure. The Royal Assent date was the 6th April 2016. The accompanying regulations under Section 22 of the Act came into force on the 1st April 2018. It applies to all organisations that provide Health Services, Care Services or Social Work services in Scotland.
- 3.2 Duty of Candour is a procedure that organisations providing Health Services, Care Services and Social Work services in Scotland are required to follow where there has been an unintended or unexpected incident that results in death or harm. Each statutory body should have a procedure to manage the obligations and to publish an annual report as soon as is reasonably practicable after the end of that financial year.
- 3.3 A multi service working group has been overseeing the continued implementation and updating of local procedure. Unfortunately this is the first year that the return has had a reportable incident to apply the procedure. It is felt that due to the serious nature of the incident the public report should be presented and agreed by the Scottish Borders Council.
- 3.4 The procedure has been updated to reflect senior officers' input and requests for change to reflect the learning from the organisation's inaugural use of the procedure. The updated procedure is attached (Appendix1). The council have an incident recording system called "Lexi" the recording system is live and was reviewed in light of the unfortunate event.

### **4 MAIN POINTS/ISSUES**

- 4.1 Sadly an adult in our care passed away and in light of this and the application of the Duty of Candour procedure, we have reviewed our procedures and made changes where applicable to ensure we learn from this. The annual report (Appendix 2) has been prepared for the financial year 2021/22. The duty of candour report sets out the different reportable incident types e.g. increase in treatment or lessening of function and asks for info on how procedure may have changed on the back of any incidents.

### **5 IMPLICATIONS**

#### **5.1 Financial**

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

#### **5.2 Risk and Mitigations**

The need for the duty of candour is a statutory requirement. There is a reputational risk in not having a procedure in place. Registered services are required to evidence that a duty of candour statement exists and publish an annual report. For those services without the evidence an advisory or requirement may be set by relevant inspection bodies.

### 5.3 **Integrated Impact Assessment**

An Integrated Impact Assessment has been produced and published.

While the introduction of the policy will have a generally positive impact a full assessment is not considered necessary because the policy implements a statutory obligation and will apply regardless of protected characteristic or membership of socio –economic groups.

### 5.4 **Sustainable Development Goals**

Sustainable development goals are not impacted on by this requirement

### 5.5 **Climate Change**

Climate change goals are not impacted on by this requirement

### 5.6 **Rural Proofing**

The rural proofing considerations are not impacted on by this requirement

### 5.7 **Data Protection Impact Statement**

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

The Act contains a requirement that any report published should not contain any information which is likely to identify an individual.

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

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

## 6 **CONSULTATION**

- 6.1 The Chief Executive, The Acting Chief Financial Officer, the Acting Chief Corporate Governance Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications have been consulted. Comments received have been incorporated into the final report.

### **Approved by**

**Name Stuart Easingwood      Director Social Work & Practice**

### **Author(s)**

Name	Designation and Contact Number
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**Background Papers:** N/A

**Previous Minute Reference:** N/A

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Scottish Borders Council

## Organisational Duty of Candour Procedure

2023

## Introduction

The Duty of Candour came into effect on 1<sup>st</sup> April 2018. It applies to all organisations that provide Health Services, Care Services or Social Work services in Scotland.

Duty of Candour sets out the procedure that organisations providing Health Services, Care Services and Social Work services in Scotland are required to follow where there has been an unintended or unexpected incident that results in death or harm.

When harm occurs the focus is on;

- Personal contact with those affected
- Support and a process of review
- Meaningful action which is informed by the principles of learning and continuous improvement

In order to ensure consistency in applying the Duty of Candour procedure, it is important that incidents are monitored, recorded and reported by all relevant organisations.

Duty of Candour underpins the Scottish Government's commitment to openness and learning which is vital to the provision of safe, effective and person-centred health and social care.

The below guidance sets out our approach to Duty of Candour:

### **When must the duty of candour procedure be activated?**

The duty of candour procedure must be activated by an organisation as soon as reasonably practicable after becoming aware that an unintended or unexpected incident occurred in the provision of the health, care or social work service provided by the organisation as the responsible person and, in the reasonable opinion of a registered health professional not involved in the incident, that the incident appears to have resulted in or could result in the following:

- A. The death of the person
- B. Permanent lessening of bodily, sensory, motor, physiologic or intellectual functions (including removal of the wrong limb or organ or brain damage) ("severe harm")
- C. Harm which is not severe harm but which results in one or more of the following;
  - An increase in the person's treatment;
  - Changes to the structure of the person's body;
  - The shortening of the life expectancy of the person;
  - An impairment of the sensory, motor or intellectual functions of the person which has lasted, or is likely to last, for a continuous period of at least 28 days;
  - The person experiencing pain or psychological harm which has been, or is likely to be, experienced by the person for a continuous period of at least 28 days.
- D. The person requires treatment by a registered health professional in order to prevent:
  - The death of the person;
  - Any injury to the person which, if left untreated, would lead to one or more of the outcomes mentioned in paragraph B or C.

The incident must have directly caused the harm or potential harm. The harm must not be caused by the natural course of a person's illness or underlying condition.

## **The view of the registered health professional**

When an unintended or unexpected incident occurs, a registered health professional must give their view on the incident, and whether it appears to have resulted or could result in one of the outcomes detailed above.

The organisation must ensure that the registered health professional who gives the opinion mentioned above, following an unintended or expected incident, is not someone who was involved in the incident. However, the health professional could work for the organisation.

Although it is up to Scottish Borders Council to determine the most appropriate way of obtaining the views of a registered health professional not involved in the incident, it is likely that health professionals will require organisations to provide them with the following core information in the first instance:

- What was the incident?
- What was the outcome?
- What illnesses and underlying condition did/does the person have?

In circumstances where there is not a registered health professional working within the organisation where the incident occurred, registered health professionals with an existing involvement with the relevant person should be contacted where possible. However, they must not have been involved in the incident. Health services can provide assistance in identifying a registered health professional who would be able to provide the required view in such circumstances.

If there are difficulties in identifying a registered health professional, Healthcare Improvement Scotland or the Care Inspectorate can be contacted for advice on routes to be considered.

## **Where more than one organisation needs to be involved in the duty of candour procedure**

The duty of candour procedure is the legal responsibility of the organisation who provided the health service, care service or social work service in which the incident occurred. (the “responsible person”).

Other health and social care providers may have been involved in the provision of care and services to the client, but they are not responsible persons (organisations) in respect of that incident.

It is often the case that a range of organisations are involved in the episode of treatment or care where the unexpected or unintended incident occurred. Although they are not responsible persons in terms of the legislation, they may need to become involved in providing information as part of a review or in providing support for relevant persons coping with the personal impact of death or harm arising from the unintended or unexpected incident. In rare circumstances, several responsible persons may each decide to activate the duty of candour procedure for multiple incidents. In such circumstances, responsible persons should seek to communicate with each other, emphasising co-operation and ensuring a co-ordinated approach in their communications with the relevant person.

Where more than one organisation needs to be involved in the duty of candour review, all parties are expected to co-operate fully throughout the duty of candour procedure and share lessons learned and necessary actions identified by the procedure.

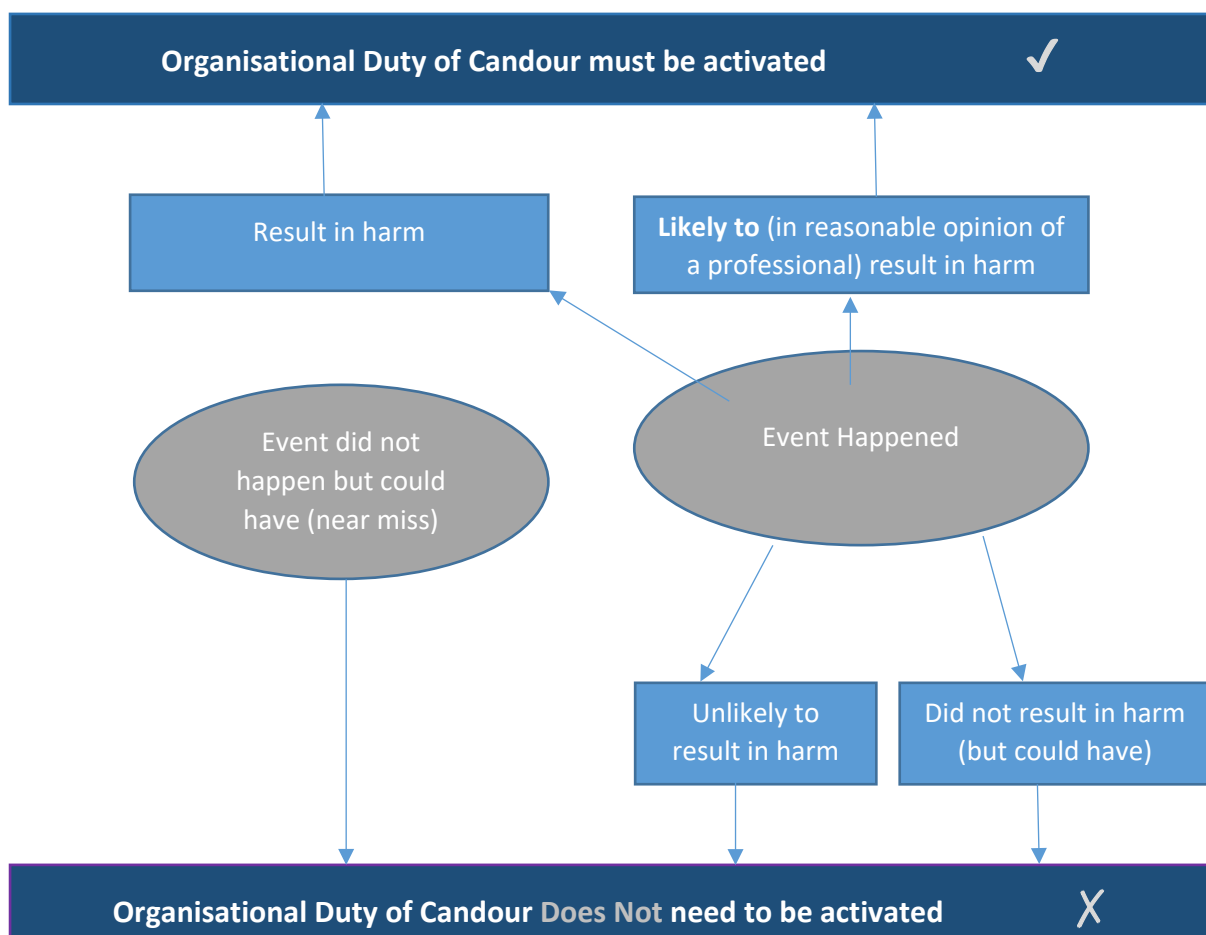
Where this is the case, the relevant person must be informed as part of the notification process, that the organisation where the incident occurred is the responsible person, as defined by the legislation, who will carry out the procedure.

### What is the procedure start date?

The procedure start date is the date that Scottish Borders Council receives confirmation from a registered health professional that, in their reasonable opinion, an unintended or unexpected incident appears to have resulted in, or could result in, an outcome listed above and that relates directly to the incident rather than to the natural course of the relevant person's illness or underlying condition.

### What does 'could result' mean and how is that decision to be made?

If the registered health professional thinks that it is unlikely that harm will occur, then the duty of candour procedure need not be activated for that incident. The diagram below sets out the decision making process in more detail



### Notification

The duty of candour legislation states that the relevant person should be notified as soon as reasonably practicable but it should be considered good practice to notify the relevant person within 10 working days of the procedure start date.

This notification can be by various methods including telephone, face to face or by letter. It is important to remember that where a duty of candour procedure start date is more than a

month after the incident, the organisation must provide the relevant person with an explanation of why this is.

## **Communication with relevant person**

The organisation must take reasonable steps to find out the relevant person's preferred method of communication. They must also take reasonable steps to ensure that communication with the relevant person is in a manner that they can understand.

## **Apology**

In addition to any apology given at the time, the relevant person must be offered a written apology, and provided with one if they wish. This can be by electronic communication if that is the relevant person's preferred means of communication.

Section 23(1) of the Act states that "an 'apology' means a statement of sorrow or regret in respect of the unintended or unexpected incident." The Act sets out that 'an apology' or other step taken in accordance with the duty of candour procedure does not of itself amount to an admission of negligence or a breach of a statutory duty."

Further guidance on making an apology as part of the duty of candour procedure and the form this might take is set out in [Annex D](#). Further information can also be found on the Little Things Make a Big Difference website: <http://www.knowledge.scot.nhs.uk/making-a-difference/resources.aspx>

The written apology should be personal and be provided at an appropriate time during the duty of candour procedure, taking account of the facts and circumstances in relation to the particular incident.

There may still be misconceptions and misunderstanding that the provision of an apology equates to an admission of liability and that organisations should never offer apologies for this reason – but that is not correct.

## **Meeting**

The responsible person within Scottish Borders Council must invite the relevant person to attend a meeting and give them the opportunity to ask questions in advance. The organisation must take reasonable steps to ensure that the meeting is accessible to the relevant person, having regards to their needs and individuals required or requested to support them.

### **The meeting must include:**

- a verbal account of the incident;
- an explanation of any further steps that will be taken by the organisation to investigate the circumstances which it considers led or contributed to the incident;
- an opportunity for the relevant person to ask questions about the incident;
- an opportunity for the relevant person to express their views about the incident; and
- the provision of information to the relevant person about any legal, regulatory or review procedures that are being followed in respect of the incident in addition to the procedure.

## **After the meeting the relevant person must be provided with:**

- a note of the meeting;
- contact details of an individual member of staff acting on behalf of the organisation whom the relevant person may contact in respect of the procedure.

If the relevant person does not wish to, or is unable to attend the meeting, the organisation must still provide them with the information set out above (other than a note of the meeting) if the relevant person wishes it.

## **The review**

The relevant service within Scottish Borders Council must carry out a review of the circumstances which they consider led or contributed to the unintended or unexpected incident. The legislation does not specify the manner in which the review is undertaken, but it is likely that this will be one of a range of review processes that are already undertaken such as an adverse event review, a significant case review of the sort undertaken by child, adult and public protection committees or a morbidity or mortality review.

Best practice requires that reviews involve clinical and care professionals with the relevant subject matter expertise, as appropriate.

**In the case where the review is not completed within three months of the procedure start date, the organisation must provide the relevant person with an explanation of the reason for the delay in completing the review.**

In carrying out the review, the views of the relevant person must be sought and be taken into account. This will be best implemented through the development of a supportive relationship with the relevant person and arrangements that ensure review processes consider the views of the relevant person and are able to demonstrate the way in which these views (which are likely to reflect what matters most) have been taken account of.

**Scottish Borders Council must prepare a written report of the review, which must include:**

- a description of the manner in which the review was carried out;
- a statement of any actions to be taken by the organisation for the purpose of improving the quality of service it provides and sharing learning with other persons or organisations in order to support continuous improvement in the quality of health, care or social work services; and
- a list of the actions taken for the purpose of the procedure in respect of the incident and the date each action took place.

This provides the organisation with an opportunity to demonstrate that the views of relevant persons have been considered and that a review has been conducted that has focused on systems analysis that takes account of best practice in review and investigation of human factors.

The legal requirement to include details of the dates when each element of the duty of candour procedure took place is included to provide an overview of the process within the organisation from the point that they decide to activate the duty of candour procedure to the point the review is concluded.

Where possible, written reports on reviews should be written in a manner that minimises the need for extensive redaction.

**Scottish Borders Council must offer to send the relevant person:**

- a copy of the written report of the review;
- details of any further information about actions taken for the purpose of improving the quality of service provided by the organisation or other health, care or social work services; and
- details of any services or support which may be able to provide assistance or support to the relevant person, taking into account their needs.

**Records**

Scottish Borders Council must keep a written record for each incident to which the duty of candour procedure is applied, including a copy of every document or piece of correspondence relating to the application of the duty of candour procedure to the incident. The written record should be retained by the organisation in accordance with relevant local policies and procedures.

**Reporting and Monitoring**

The Act sets out that a responsible person that provides a health, care, or social work service during a financial year must prepare an annual report, as soon as reasonable practicable after the end of that financial year. This will be signed off by the Chief Social Work Officer.

All duty of candour incidents will be logged in the LEXI system to ensure accurate reporting can be delivered.

**The report must include:**

- information about the number and nature of incidents to which the duty of candour procedure has applied in relation to a health service, a care service or a social work service provided by the responsible person;
- an assessment of the extent to which the responsible person carried out the duty of candour;
- information about the responsible person's policies and procedures in relation to the duty of candour, including information about procedures for identifying and reporting incidents, and support available to staff and to persons affected by incidents;
- information about any changes to the responsible person's policies and procedures as a result of incidents to which the duty of candour has applied;
- such other information as the responsible person thinks fit.

The report must not mention the name of any individual, or contain any information that could identify any individual.

The report must be published in a manner that is publicly accessible. For instance, on Scottish Borders Council's website.

**When Scottish Borders Council has published a report, they must notify:**

- The Care Inspectorate, in the case of a report published by an organisation which provides a care service or a social work service. The Care Inspectorate will ask for information about whether or not care services have published their duty of candour report in the first set of Annual Returns following the end of the financial year after which the report must be published.
- Healthcare Improvement Scotland must be notified when an incident occurs with an organisation which provides an independent healthcare service (within the meaning of section 10F(1) of the NHS (Scotland) Act 1978). This can be submitted via the eForms system;
- The Scottish Ministers, must be notified when an incident occurs with any other organisation which provides a health service. Please send the notification to [dutyofcandour@gov.scot](mailto:dutyofcandour@gov.scot)
- The Annual report will also be brought to council.

## **Training and Support**

### **Training**

All relevant staff will be made aware of the Duty of Candour through the induction process.. The training is available as eLearning and consists of two parts:

Service Managers, Team leaders, Assistant Team Leaders and Supervisors must complete the online training.A Duty of Candour eLearning module which is hosted on the NHS TURAS website:

<http://www.knowledge.scot.nhs.uk/scormplayer.aspx?pkgurl=%2fecomscormplayer%2fdutyofcandour%2f>

Employees may be asked to show evidence that they have completed the elearning module.

The relevant persons must be provided with details of needs-based services or support. The establishment should consider the relevance of services and support such as counselling, bereavement support and independent advocacy.

Through meetings and discussion with relevant persons, Scottish Borders Council should determine the impact of the unintended or unexpected event on their health and wellbeing. This will assist with identification of their needs and the way in which services or support might provide them with assistance.

Scottish Borders Council must provide any of their employees who were involved in the incident with details of any services or support of which the organisation is aware which may be able to provide assistance or support to any such employee, taking into account the circumstances relating to the incident; and the employee's needs. This may take the form of debriefing or direct support.

All employees have the responsibility to report all accidents/incidents using the SBC incident reporting system (Lexi) and to inform their managers of any incident/accident that has resulted in minor or serious harm.

All staff in Health & Social Care and in any other department which is subject to the Duty of Candour are must be aware of the Duty of Candour procedure.

Service Managers, Team leaders, Assistant Team Leaders and Supervisors are responsible for implementing the procedure where appropriate.



Other staff acting as investigators of incidents of harm have the responsibility to ensure that the procedure is implemented if the investigation discloses that is appropriate.

Group Managers and Service Managers will monitor the implementation of this procedure and ensure that the procedure is invoked in appropriate circumstances.

## **Duty of Candour Checklist**

### **Step 1: Identifying and Contacting the Relevant Person**

- Do you know who the relevant person is in respect of this incident?
- Is their preferred method of communication already known? If not, this needs to be determined and noted.
- Has it been possible to make contact with them? If not, a note should be made of the attempts that have been made to make contact.

### **Step 2: Notify Relevant Person**

- Provide the relevant person with an account of the incident and what actions are going to be taken (Note that if it is more than a month since the incident then we must explain why).

### **Step 3: Arrange a Meeting**

- Arrange/offer a meeting and provide the person with the opportunity to ask questions in advance of the meeting.  
At the meeting (or through communication if not desired):
  - Apologise, if not already.
  - Tell the person what happened.
  - Tell them what further steps are being taken.
  - Give the relevant person the opportunity to ask further questions and express their views.
- Tell them about any other processes that might be on-going.
- Provide them with a note of the meeting and details on how to contact a person within the organisation.

### **Step 4: Carry out a Review**

- Start a review – remember to seek the views of the relevant person.
- Prepare a report – to include the manner it has been carried out.
- Ensure that report focus is on improving quality and sharing learning.

- Report to include the actions taken in respect of the duty of candour procedure.
- Offer to send the relevant person a copy of the review report – remember to let them know of any further actions subsequently.
- Make sure that a written apology is offered.

**Throughout – Support and Assistance for Relevant Person and Staff**

- Consider and give relevant person support or assistance available to them.
- Staff to receive training and guidance on all requirements of the procedure.
- Employees to be provided with details of services or support relating to their needs arising from the incident.

**Definitions** as set out in the Health (Tobacco, Nicotine, etc. And Care) (Scotland) Act 2016 and the implementing regulations: The Duty of Candour Procedure (Scotland) Regulations 2018.

**“The Act”** means the Health (Tobacco, Nicotine, etc. and Care) (Scotland) Act 2016.

**“The 1978 Act”** means the National Health Service (Scotland) Act 1978.

**“The Regulations”** mean the Duty of Candour Procedure (Scotland) Regulations 2018.

**“care service”** has the meaning given by section 47(1) of the Public Services Reform (Scotland) Act 2010, except that it does not include a service mentioned in paragraph (k) of that section (child minding).

**“health service”** means services under the health service continued under section 1 of the 1978 Act, and an independent healthcare service mentioned in section 10F(1) of the 1978 Act.

**“incident”** means the unintended or unexpected incident by virtue of which section 21(2) of the Act applies to a person.

**“the procedure”** means the actions set out in regulations 2 to 7 of the Duty of Candour Procedure (Scotland) Regulations 2018.

**“registered health professional”** means a member of a profession to which section 60(2) of the Health Act 1999 applies.

These are the professions regulated by:

Medical Act 1983

Dentists Act 1984

Opticians Act 1989

Osteopaths Act 1993

Chiropractors Act 1994

Pharmacy Order 2010] and the Pharmacy (Northern Ireland) Order 1976,]

Nursing and Midwifery Order 2001],

Health Professions Order 2001

Hearing Aid Council Act 1968 as relates to dispensers of hearing aids,]

any other profession regulated by an Order in Council under this section.

**“relevant person, as set out in section 22(3) of the Act”** means the person who has received the health service, the care service or the social work service, or where that person has died, or is, in the opinion of the responsible person, lacking in capacity or otherwise unable to make decisions about the service provided, a person acting on behalf of that person.

**“responsible person”**, as set out in section 25 of the Act, means:

- a Health Board constituted under section 2(1) of the 1978 Act;
- a person (other than an individual) who has entered into a contract, agreement or arrangement with a Health Board to provide a health service;

- the Common Services Agency for the Scottish Health Service constituted under section 10(1) of the 1978 Act;
- a person (other than an individual) providing an independent healthcare service mentioned in section 10F(1) of the 1978 Act;
- a local authority;
- a person (other than an individual) who provides a care service;
- an individual who provides a care service and who employs, or has otherwise made arrangements with, other persons to assist with the provision of that service (unless the assistance in providing that service is merely incidental to the carrying out of other activities);
- a person (other than an individual) who provides a social work service.

**“social work services”** has the meaning given by section 48 of the Public Services Reform (Scotland) Act 2010.

**“written”** includes electronic communication, as defined in section 15(1) of the Electronic Communications Act 2003.

FAQs

<https://www.gov.scot/publications/duty-of-candour-frequently-asked-questions/>

### **Duty of Candour – Scottish Borders Council Annual Report – 1 April 2021 – 31 March 2022**

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.

An important part of this duty is that we provide an annual report about how the duty of candour is implemented in our services. This report describes how Scottish Borders Council have operated the duty of candour during the time between 1 April 2021 and 31 March 2022. In fulfilling this statutory duty we are legally required to ensure that no individual can be identified. The level of detail in this document ensures that this obligation is met.

#### **1. How many incidents happened to which the duty of candour applies?**

The legislation defines a Duty of Candour incident as an unintended or unexpected incident that results in death or harm as defined in the Act and set out in the table below.

If we believe an event may trigger Duty of Candour we must seek the views of a Registered Health Professional (RHP) to confirm that one of these “harms” has occurred as a result of the unexpected or unintended incident, rather than as a result of the individual’s illness or underlying condition.

Scottish Borders Council Services have identified a number of routes for incidents which may trigger the duty of candour, including accidents reported by staff providing services, review of significant occurrences, incidents reported through Adult or Child Protection processes, complaints, or claims received by the Council.

Between 1 April 2021 and 31 March 2022, we are extremely sorry to report that an adult in our care passed away. In light of this and the application of the Duty of Candour procedure, we have reviewed our procedures and made changes where applicable to ensure we learn from this. This was the only incident in the reporting year where Duty of Candour applied.

Type of unexpected or unintended incident (not related to the natural course of someone’s illness or underlying condition)	Number of times this happened (between 1 April 2020 and 31 March 2021)
A person died	1
A person incurred permanent lessening of bodily, sensory, motor, physiologic or intellectual functions	0
A person’s treatment increased	0
The structure of a person’s body changed	0
A person’s life expectancy shortened	0
A person’s sensory, motor or intellectual functions was impaired for 28 days or more	0
A person experienced pain or psychological harm for 28 days or more	0

A person needed health treatment in order to prevent them dying	0
A person needed health treatment in order to prevent other injuries as noted above	0
Total	1

**2. To what extent did Scottish Borders Council Services follow the duty of candour procedure?**

SBC services followed the duty of candour policy by compiling a report on the incident that occurred during the stated period, a written apology and an in person meeting with the relatives was held, as well as progressing the learning points identified by the incident.

**3. Information about our policies and procedures**

Scottish Borders Council set up a Duty of Candour Working Group. The Working groups developed a Council wide procedure and kept it under review. The group has representation from all relevant Council services providing social work and care services as well as input from human resources. The Working Group has met regularly since February 2021 and will continue to meet annually going forward. The Working Group has updated the policy. The Working Group has also developed and put in place a reporting mechanism. National training resources have been used up to date. The Working Group has drafted a local training programme to ensure the policy continues to be embedded into Health and Social Care practice. This programme of training will be delivered in the coming financial year.

We know that events that trigger the duty of candour can be distressing for staff as well as the people who receive care. We have support available for staff through our line management structure as well as counselling services through the Council’s Occupational Health provider and trade union representatives.

**4. Information about any changes to policies and procedures to which the Act applies?**

As above, the Duty of Candour Procedure has been reviewed by a Working Group and a new procedure has been developed and is before Council today for approval.

There was one Duty of Candour Incident in the reporting year and a number of recommendations have come from that which have been / are being acted upon. We cannot publish details that may identify any individuals in the duty of candour annual report.

**5. Other information**

The policy has been updated this year and will continue to develop to ensure the organisation is equipped to deal with duty of candour outcomes in line with the legislation.

As required we have submitted this report to the Care Inspectorate and will also place it on our website following agreement.

Signed Stuart Easingwood

Director of Social Work & Practice





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## **KING'S CORONATION HOLIDAY AND FUND FOR COMMUNITY CELEBRATIONS**

**Joint Report by Director People Performance and Change and Director Resilient Communities**

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### **SCOTTISH BORDERS COUNCIL**

**16 February 2023**

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#### **1 PURPOSE AND SUMMARY**

**1.1 The purpose of this report is for the Council to consider the best approach to allow employees and communities to celebrate the King's Coronation in May 2023.**

1.2 His Majesty King Charles III will celebrate His Coronation in May 2023. The First Minister has confirmed, along with the other nations of the United Kingdom, the introduction of a Bank Holiday on Monday 8 May 2023 to mark the celebration of His Majesty's Coronation. The Convention of Scottish Local Authorities (CoSLA) has not issued specific guidance to Local Authorities, leaving the decision at the discretion of each Council. The Coronation will take place on Saturday 6 May 2023.

1.3 Four options were considered in coming to a conclusion on how best to mark the occasion. It is proposed that Option 2 is taken forward, and a holiday is granted for Monday 8 May as an additional one-off annual leave day for staff and the public offices of the Council are closed.

1.4 It is further proposed that a sum of £50k be allocated to create a King's Coronation Fund, which will be made available to each of our 69 Community Councils to host celebratory community events to mark the King's Coronation Weekend from 6 to 8 May 2023.

#### **2 RECOMMENDATIONS**

**2.1 It is recommended that the Council agrees:**

- (a) to grant the holiday as an additional one off annual leave day on Monday 8 May 2023 and the public offices of the Council are closed on that day. If staff are required to work on this holiday, no enhancements to pay will be given and only time in lieu will be granted; and**

- (b) to approve a total sum of £50k which will be allocated to all Community Councils, in line with the current allocation arrangements for support, to host celebratory community events to mark the King's Coronation Weekend.**

### **3 BACKGROUND**

- 3.1 The UK government along with all devolved governments has confirmed there will be a Bank Holiday on Monday 8 May 2023 in recognition of His Majesty King Charles III Coronation. The Coronation Ceremony takes place on Saturday 6 May 2023.
- 3.2 In the absence of specific guidance from CoSLA, each Local Authority is considering different options and as such, there is no consistent approach. The options presented in this report are however consistent with what is being considered across other Local Authorities.
- 3.3 In 2022 Scottish Borders Council (SBC) approved a one off additional days leave to celebrate the Queen's Platinum Jubilee and in 2011 approved a one off additional days leave to celebrate the Royal Wedding of Prince William and Miss Kate Middleton.

### **4 OPTIONS FOR HIS MAJESTY KING CHARLES III CORONATION**

- 4.1 In the absence of specific guidance from CoSLA a number of options are presented in this report for consideration.

#### **4.2 Option 1**

The first is to do nothing. This may result in an adverse reaction from employees and Trades Unions. While there is a variation of approaches across Scottish Local Authorities, with some undecided as yet, most are either giving a one off additional days leave or treating Monday 8 May 2023 as a public holiday. One Authority is moving their May Day holiday.

#### **Option 2**

- 4.3 Grant a one-off additional day's leave on Monday 8 May 2023. This option is being proposed by 10 of the Councils who have plans for the Coronation. It mirrors the steps taken by SBC in June 2022 to celebrate the Queen's Platinum Jubilee and in 2011 to celebrate the Royal Wedding of Prince William and Miss Kate Middleton.

#### **Option 3**

- 4.4 Move the May Day Holiday from 1 May to 8 May. Moving the May Day holiday may not be attractive to staff. The Trades Unions may also be unhappy with this given May Day is International Workers Day. Currently one Local Authority has announced they are taking this approach.

#### **Option 4**

- 4.5 Give a Public Holiday on Monday 8 May 2023. Any staff required to work on this day would receive enhancements to their pay. This approach is being proposed by 11 of the Councils who have plans for the Coronation. This is a more costly option and given the financial pressures SBC are facing this may not be viewed as a viable option.

- 4.6 If option 2 is taken, anyone required to work on 8 May 2023 should receive a day to be taken in lieu. Because this is an additional annual leave day and not a fixed or public holiday, there would be no enhancements payable for working on that day.
- 4.7 Legislation ensures that part-time employees are not treated less favourably than their full time colleagues and as such would be entitled to this extra leave on a pro-rata basis if they are scheduled to work on that day.
- 4.8 Council policy states that employees are not entitled to recompense if absent due to sickness on a fixed or public holiday. However, those on maternity leave would be entitled to accrue this day if other employees not on maternity leave were granted it.
- 4.9 The Director of Education & Lifelong Learning would need to apply to Scottish Government seeking permission to reduce the number of school days from 190 days to 189 day if a decision to grant the day's additional leave is taken. Scottish Government have confirmed they would be supportive of such an application.

#### **4 FUNDING FOR COMMUNITIES**

- 5.1 It has been recognised that there is a desire within some communities that they would like to mark the occasion of the King's Coronation. It is therefore proposed that a sum of £50k is allocated from reserves to create a fund for communities to host celebratory community events to mark the King's Coronation Weekend 06 – 08 May 2023, with a focus on supporting both the Coronation Big Lunch on Sunday 07 May and the Big Help Out on Monday 8<sup>th</sup> May.
- 5.2 The Big Lunch on Sunday 07 May is an idea from the Eden Project and supported by The National Lottery across the United Kingdom which aims to bring people together to boost community spirit and reduce loneliness. Free downloadable resources will also be made available online by the Big Lunch team at [www.CoronationBigLunch.com](http://www.CoronationBigLunch.com) to help people and communities start their Coronation Big Lunch planning.
- 5.3 The Big Help Out on Monday 08 May is being organised by The Together Coalition and a wide range of partners such as The Scouts, the Royal Voluntary Service and faith groups across the United Kingdom. The Big Help Out will highlight the positive impact volunteering has on communities across the nation. The Big Help Out will encourage people to try volunteering for themselves and join the work being undertaken to support their local areas, and create a lasting volunteering legacy from the Coronation Weekend.
- 5.4 Rather than a fund which invites applications, it is proposed that a grant is offered to each of our 69 Community Councils across the Scottish Borders. Community Councils will be sent an e-mail on 20 February asking if they would like to host an event/events in their area and advising them what the grant allocation would be. If they wish to host

an event/or support other events in their area, (which must be inclusive, open to all within their community and based on ideas from their local community), they will simply respond and the award will be processed in the same way as their current support grant.

- 5.5 The funding could also be used for a commemorative item if there is no desire to hold an event, with proposals and ideas agreed in consultation with local communities.
- 5.6 Guidance will be provided that sets out the expectations of the fund, but there will be no application forms or further documentation required to access the funding. Standard monitoring and evaluation will be undertaken by the Communities and Partnership Team.
- 5.7 The allocation to each Community Council will be based on per head of population, in line with the current allocation arrangements of the Community Council Support Grant, which is a tried and tested method that has been used for a number of years. This would mean grant awards of between £540 and £1780 depending on the size of the Community Council.
- 5.8 In order for payments to be processed before the King's Coronation Weekend, Community Councils will be asked to respond by 31 March. If no response is received, it will be assumed that there is no requirement for funding support. The funding for the King's Coronation will require a robust communications strategy and plan in order to support communities to access funding in a timely way.
- 5.9 There are a number of other national funding streams such as National Lottery Community Fund and National Lottery Heritage Fund that may complement community projects and support to access these funds can be provided by the Communities & Partnership Team and the Third Sector Interface. Grants from between £300 and £10,000 are available. Links to each funding stream are provided below:  
[National Lottery Awards for All Scotland | The National Lottery Community Fund \(tnlcommunityfund.org.uk\)](https://www.tnlcommunityfund.org.uk)  
[Scotland | The National Lottery Heritage Fund Funding programmes | The National Lottery Community Fund \(tnlcommunityfund.org.uk\)](https://www.tnlcommunityfund.org.uk)

## **6 IMPLICATIONS**

### **6.1 Financial**

- a) There are no financial implications to Option 1 or 3.
- b) Any costs associated with Option 2 will be met from within existing budgets.
- c) Option 4 is being discounted on the grounds of affordability.
- d) It is proposed that £50k for the King's Coronation Fund be taken from Reserves.

## 6.2 Risk and Mitigations

If no action is taken to commemorate the King's Coronation there is a risk of an adverse reaction from employees and Trades Unions and also reputational damage. There are similar risks to moving the May Day holiday as provided for in option 3.

## 6.3 Integrated Impact Assessment

Given the options are either a continuation of the current position, granting a public holiday or an additional day's leave, there are no equality or Fairer Scotland duty implications and an Integrated Impact Assessment is not required.

## 6.4 Sustainable Development Goals

There is no impact/ difference to any of the UN Sustainable Development Goals.

## 6.5 Climate Change

There are no Climate Change implications to the proposals in this report.

## 6.6 Rural Proofing

There are no Rural Proofing implications to the proposals in this report.

## 6.7 Data Protection Impact Statement

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

## 6.8 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 as a result of the proposals 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 Resilient Communities, the Clerk to the Council and Communications are being consulted and any comments received will be incorporated into this report.

### Approved by

**Clair Hepburn**  
**Director People Performance and Change**

**Jenni Craig**  
**Director Resilient Communities**

### Author(s)

Name	Designation and Contact Number
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**Background Papers:** Nil

**Previous Minute Reference:** N/A

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

Contact us at Lorna Aitken [laitken1@scotborders.gov.uk](mailto:laitken1@scotborders.gov.uk)

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**AWARD OF SUBSIDISED LOCAL BUS SERVICE CONTRACT 101/102  
(DUMFRIES – BIGGAR – EDINBURGH)**

**Report by Director Infrastructure and Environment**

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**SCOTTISH BORDERS COUNCIL**

**16<sup>th</sup> February 2023**

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**1 PURPOSE AND SUMMARY**

1.1 **This report proposes that the Council endorses the award of the subsidised local bus service contract 101/102 (Dumfries – Biggar - Edinburgh) to Houston’s of Lockerbie in order to preserve the service for the communities of West Linton and Tweeddale.**

1.2 The 101/102 service is jointly funded by SPT, SWESTRANS and Scottish Borders Council, Midlothian Council contributes towards departure charges at Edinburgh Bus Station.

1.3 The route provides a direct link between Dumfries and Galloway and Edinburgh providing vital transport links for communities in Tweeddale West for work, education and leisure.

1.4 The service is currently operated by Stagecoach Western who delivered the supported service until August 2022 at an annualised cost of £272,000, see funding split below.

• SPT (Strathclyde Passenger Transport)	£132,140
• SWestrans (Dumfries and Galloway)	£105,277
• SBC (Scottish Borders Council)	£35,000

1.5 SWESTRANS carried out a tendering exercise in February/March 2022 for the renewal of the contract which returned a price of £507,940, representing an 86% increase in costs.

1.6 The increase was deemed unaffordable by partners and the tendering process was closed on the basis that no sustainable solution could be found.

- 1.7 A temporary 101/102 service contract, arranged by SWESTRANS, was agreed and put in place until 31 March 2023 to enable partners to identify a more sustainable solution.
- 1.8 SPT carried out a further tendering exercise however detailed analysis of the bids concluded that none of these offerings were financially acceptable to the funding partners and therefore could not be recommended for award.
- 1.9 Subsequent direct negotiations with local transport operators took place and Houston's of Lockerbie submitted a bid of £385,000 per annum for 3 years with the option to extend for another 2 years. All partners have agreed to support the award of the new contract.

## **2 RECOMMENDATIONS**

### **2.1 It is recommended that Scottish Borders Council:-**

- a) Endorses the award of the 101/102 service contract to Houston's Coaches at a cost of £385,000 per annum for 3 years (with an optional 2 year extension), effective from 1 April 2023; and**
- b) Agrees to increase Scottish Border Council's funding contribution from £35,000 to £128,333.33 per annum and reflect this cost in the annual transport revenue budget from March 2023.**

### 3 BACKGROUND

- 3.1 The Service 101/102 provides a direct link for communities in Tweeddale West into Edinburgh and Dumfries. The route also serves local communities in Dumfries and Galloway, Clydesdale and Midlothian as it travels along the A702 providing a link into employment, education, health and leisure for residents along the length of the route.
- 3.2 There are currently 12 journeys each way Monday to Saturday between Edinburgh and Biggar, including 4 trips through to Dumfries in each direction. On Sunday there are 4 trips each way with 2 of the 4 operating between Edinburgh and Dumfries.
- 3.3 The service is jointly funded by Strathclyde Partnership for Transport (SPT), SWESTRANS (Dumfries and Galloway) and Scottish Borders Council, with Midlothian Council providing a contribution towards the departure charges for Edinburgh Bus Station.
- 3.4 Stagecoach Western delivered the supported service until August 2022 at an annualised cost of £272,000, see contribution split below.
- |   |          |
|---|----------|
| • SPT (Strathclyde Passenger Transport) | £132,140 |
| • SWestrans (Dumfries and Galloway)     | £105,277 |
| • SBC (Scottish Borders Council)        | £35,000  |
- 3.5 In March 2022, SWESTRANS published an invitation to tender for the route in its current format to commence in August 2022. This was a 1 year contract with the option to extend for a further year through to August 2024.
- 3.6 There was only one response to the tender from the current operator who submitted a price £507,940. This represents an 86.4% increase on the current contract cost. This was deemed unaffordable in the long term by all partner organisations.
- 3.7 In light of this, and to ensure continuation of service and minimise disruption to the communities impacted, partners agreed to extend the contract on an emergency basis at the new tender price until 31st December, with an option to extend for a further 13 weeks i.e. until 31st of March 2023.
- 3.8 The temporary contract extension provided additional time for the partner organisation to undertake a further procurement exercise to seek an alternative affordable solution.

## 4 OUTCOME OF FURTHER PROCUREMENT EXERCISE

- 4.1 In terms of the scope of the tendering exercise for the 101/102 service, the funding partners considered a number of different timetable and route options to encourage interest from a range of operators along the route and to meet the needs of users. Feedback was also considered from the communities served, local members and campaign group “Standupforourbuses”.
- 4.2 The latter sharing access to an extensive community survey which was of assistance in this regard.
- 4.3 As a result, 12 different tenders were issued with a return date of 2 December 2022. The tenders issued can be summarised as:
  - 4.3.1 Modifications on the current Dumfries – Biggar – Edinburgh – Service (i.e. Including a reduction in the number of Monday to Saturday return journeys from Biggar to Edinburgh from 12 to 10 to mitigate reliability / congestion issues on the Edinburgh section of route)
  - 4.3.2 Splitting of the service at Biggar (i.e. Dumfries to Biggar & Biggar to Edinburgh)
  - 4.3.3 Splitting of the service at Abington (i.e. Dumfries to Abington & Abington to Edinburgh)
  - 4.3.4 Truncate the service at Crawford (i.e. Crawford to Edinburgh)
  - 4.3.5 Truncate the service at Moffat (i.e. Moffat to Edinburgh)
- 4.4 Bids were received from 4 different operators with prices submitted for all 12 tenders issued inclusive of the broad options noted above.
- 4.5 Detailed analysis of the bids was completed, however, none of these offerings were financially acceptable to the funding partners and therefore could not be recommended for award.

- 4.6 Further to the above, the tendering exercise was then subsequently closed. SPT, on behalf of the funding partners, then carried out further direct negotiations with operators (including those who submitted tenders and others in the area) with a view to finding a sustainable and affordable solution to maintain links on the route between Dumfries and Edinburgh via Biggar.
- 4.7 As a result of the above exercise, the funding partners recently received a bid of £385,000 per annum from Houston’s Coaches based in Lockerbie to operate a 3-year contract (with an optional 2-year extension) for a timetable similar to the one currently operating, commencing 1 April 2023. (Note this offer provides 4 return journeys daily from Dumfries to Edinburgh, with a total of 10 return journeys between Biggar and Edinburgh Monday to Saturday and 4 return journeys on Sundays).

## 5 IMPLICATIONS

### 5.1 Financial

- a) Direct negotiation with bus operators has achieved an annual price of £385,000. Split equitably this represents an annual cost of £128,333.33.
- b) The council currently has a budget of £35,000 per annum for the provision of the 101/102 service and therefore requires a funding increase in the revenue budget of £93,333.33 per annum to cover the new tender price.
- c) It should be noted that the initial tendering exercise returned a price of £507,940.00 which represented an 86% increase in the previous tender and was deemed unaffordable by partners.

### 5.2 Risks and Mitigations

Risks	Mitigations
There is a risk that increasing the funding on this service may raise expectations that this is achievable across all local bus services	The local transport network review will identify opportunities to enhance future transport links making public transport more sustainable
Not increasing funding for the service would leave	Remaining services in Tweeddale West could be amended to provide an alternative timetable

<p>communities in Tweeddale West isolated</p> <p>Alternative timetables could impact on the wider Peebles network</p>	<p>Analysis of ticket machine data to ensure the impact is minimised as far as possible.</p>
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### 5.3 Integrated Impact Assessment

A full Integrated Impact has been undertaken and concludes that the proposal should be implemented with no amendments as it will ensure connectivity for West Linton and Tweeddale communities. In addition the new service is expected to see improved quality of vehicles and as a result service reliability.

### 5.4 Sustainable Development Goals

In the 2030 Agenda for Sustainable Development, sustainable transport is mainstreamed across several SDGs and targets, especially those related to food security, health, energy, economic growth, infrastructure, and cities and human settlements. The importance of transport for climate action is further recognized under the UNFCCC - the transport sector will be playing a particularly important role in the achievement of the Paris Agreement, given the fact close to a quarter of energy-related global greenhouse gas emissions come from transport and that these emissions are projected to grow substantially in the years to come.

### 5.5 Climate Change

Public transportation is a crucial part of the solution to climate change. It can help reduce emissions of greenhouse gases and other pollutants while providing people with an efficient and affordable way to get around.

Studies on public transport have shown that switching from car to public transportation can reduce a person's carbon footprint by up to 1.5 metric tons per year.

In addition to reducing emissions, public transportation can also help reduce traffic congestion and save people money. Mass transit systems such as buses can move many people quickly and efficiently reducing the number of single car journeys which ultimately lead to increased congestion.

### 5.6 Rural Proofing

Not applicable as this is not a new policy or strategy.

## 5.7 **Data Protection Impact Statement**

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

## 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 this report.

## 6 Consultation

The Acting Chief Financial Officer), 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

### Director Infrastructure & Environment

Signature .....

### Author(s)

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**Background Papers: None**

**Previous Minute Reference: N\A**

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

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