

Public Document Pack

SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells and Via Microsoft Teams on Thursday, 31st August, 2023 at 10.00 am

Present:- Councillors W. McAteer (Convener), J. Anderson, D. Begg, C. Cochrane, J. Cox, 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, F. Sinclair, E. Small, A. Smart, Steel, R. Tatler, V. Thomson, E. Thornton-Nicol and T. Weatherston

Apologies:- Councillors P. Brown, L. Douglas and S. Scott

In Attendance:- Chief Executive, Director Corporate Governance, Director - Education & Lifelong Learning, Director of Finance & Procurement, Director Infrastructure & Environment, Director - Resilient Communities, Director - Social Work & Practice, Director - Strategic Commissioning & Partnerships, Chief Officer - Health & Social Care Partnership and Clerk to the Council

1. **CONVENER'S REMARKS.**

1.1 The Convener congratulated the following:-

- (a) the Council staff who been involved in the recent highly successful UCI World Championship Mountain Biking competitions at Glentress and the lasting legacy that had been created;
- (b) Kelso High School which had won the Youth Engagement Project of the Year Award for their Kelsae Archaeology Project at the Marsh Community Archaeology Awards; and
- (c) Councillors Begg and Tatler on their forthcoming charity cycle ride.

DECISION

AGREED that congratulations be passed to those concerned.

1.2 The Convener advised of the sad passing of Richard Sweetnam who had worked with the Council between 2009 – 2015. He had played a prominent role in economic development including bringing the Tour of Britain to the Borders and was widely involved in the Borders Railway Blueprint.

DECISION

AGREED that condolences be passed to his family.

2. **DECLARATIONS OF INTEREST.**

Councillors Pirone and Tatler declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct due to their involvement with the Eastgate Theatre and left the Chamber during the discussion.

3. **ORDER OF BUSINESS.**

Councillor Parker, seconded by Councillor Mountford, moved that Item No. 27 in the private section of the agenda regarding the Eastgate Theatre be considered as part of

public business in the interests of transparency. There was no counter-motion so the Motion was approved.

DECISION

AGREED that Item No. 27 on the agenda be considered as part of public business.

MEMBERS

Councillors Pirone and Tatler rejoined the meeting.

4. **MINUTE**

The Minute of the Meeting held on 29 June 2023 was considered.

DECISION

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

5. **COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Hawick Common Good Fund	23 May 2023
Peebles Common Good Fund	24 May 2023
Cheviot Area Partnership	31 May 2023
Planning & Building Standards	5 June 2023
External Service Providers Monitoring Group	6 June 2023
Selkirk Common Good Fund	7 June 2023
Tweeddale Area Partnership	13 June 2023
Teviot & Liddesdale Area Partnership	14 June 2023
Planning and Building Standards	15 June 2023
Local Review Body	19 June 2023
William Hill Trust	20 June 2023
Lauder Common Good Fund	20 June 2023
Melrose Common Good Fund	20 June 2023
Pension Fund	22 June 2023
Pension Board	22 June 2023
Eildon Area Partnership	22 June 2023
Kelso Common Good Fund	27 June 2023
Peebles Common Good Fund	27 June 2023
Planning & Building Standards	3 July 2023
Coldstream Common Good Fund	5 July 2023
Selkirk Common Good Fund	10 July 2023

DECISION

APPROVED the Minutes listed above.

6. **SCOTTISH BORDERS COUNCIL OPERATING MODEL**

There had been circulated copies of a report by the Chief Executive seeking approval for the strategic principles which would inform the development of the Council's Operating Model over the next 5 years. The report aimed to define the overarching aims of a revised operating model for Scottish Borders Council and establish the strategic principles that should guide its implementation. An operating model provided a structured framework to enable the efficient and effective delivery of public services, ensuring alignment with organisational objectives, stakeholder needs, and statutory requirements. It encompassed the organisational structure, governance mechanisms, processes, and capabilities. The objective of the operating model was to ensure the Council remained able to fulfil its responsibilities and deliver the highest possible quality services to all communities. The report explained that an effective operating model for Scottish Borders Council should embrace the principles of citizen-centricity, collaborative governance, transparency, accountability, agility, effective leadership, efficient resource allocation, sustainable development, and staff engagement. By adhering to these principles, the

Council could establish a strong foundation for delivering high quality public services, meeting community needs, and promoting the well-being of its residents. Implementing this operating model required a comprehensive review of existing practices, stakeholder consultation, and the development of robust governance structures and processes. It was a continuous journey that necessitated ongoing evaluation, adaptation, and improvement to address emerging challenges and ensure the long-term success of the Council. Members welcomed the direction of travel. With reference to the section of the report dealing with Sustainable Development and Environmental Responsibility it was highlighted that it needed to be a just transition to a low-carbon economy as achieving Net Zero had costs attached. The Chief Executive confirmed that would be included. In response to a question regarding communications the Chief Executive agreed that good communications would be essential and part of the project plan, and there would be further reports brought to Members at the appropriate juncture. The aim was an evolutionary approach.

DECISION

AGREED to approve the strategic principles and aims for developing a revised operating model for Scottish Borders Council as set out in the report and to receive further reports as detailed proposals were developed.

7. DRAFT RESILIENCE FRAMEWORK FOR SCOTTISH BORDERS COUNCIL

There had been circulated copies of a report by the Chief Executive proposing the draft Resilience Policy and Framework, a copy of which was appended to the report, for adoption by Scottish Borders Council. The report explained that Scottish Borders Council's Resilience Policy and Framework aimed to ensure that the Council carried out its duties under the Civil Contingencies Act 2004 (as amended in the Civil Contingencies Act Amendment Regulations 2013) (CCA) and effectively prepared for, responded to and recovered from any incident impacting on our communities. The Council's Resilience Policy and Framework would ensure that the concept of resilience and the Council's resilience policy and approach was understood and embedded by all stakeholders, that up-to-date plans and arrangements were in place and could be activated, as necessary, in response to an incident that was impacting upon communities. The response to and recovery from any incident was proportionate and effectively managed thus reducing the impact on communities and Council services. A programme of training and exercising was put in place to robustly test resilience related plans. Lessons identified through an incident response (based on either real experience or training and exercising) were embedded into resilience arrangements and generic business continuity advice and assistance was provided to the business community and voluntary organisations. Where appropriate, resilience advice was also provided to communities to support the development of community resilience. Members supported the Policy and asked that some training be provided for Members before Winter so that they were in the position of being able to provide the correct information to their communities. Mr. McLean, Emergency Planning Officer, confirmed he would be happy to provide awareness training and advised that training for resilient communities was being provided in October. Councillor Pirone, Executive Member with responsibility for this area recommended that all Members visit to Emergency Planning Control Room and also supported the provision of training. In response to a question regarding cyber resilience Mr. McLean advised that there was a separate policy but there were links between all policies.

DECISION

AGREED to endorse and adopt the draft Resilience Policy and Framework.

MEMBER

Councillor Thornton-Nicol left the meeting.

DECLARATION OF INTEREST

Councillor Smart declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct as she rented a unit in Hawick and left the Chamber during the discussion.

8. **COUNCIL TAX AND NON-DOMESTIC RATES RECOVERY POLICY**

There had been circulated copies of a report by the Director Resilient Communities seeking approval for a Council Tax and Non-Domestic Rates Recovery Policy, a copy of which was appended to the report. The report explained that Scottish Borders Council had previously followed procedures in line with The Council Tax (Administration and Enforcement) Regulations 1992 and The Non-Domestic Rates (Collection and Enforcement) Regulations 1989. This Policy had been created to provide Scottish Borders Council employees and customers with a document they could refer to in relation to Council Tax and Non-Domestic Rates recovery. This Policy would not change the current recovery process. The report detailed the current extent of recovery action. In March 2023 a total of 59,656 annual Council Tax bills were issued. In April 2023 11% of customers failed to pay their Council Tax instalment and received a reminder from which 69% went on to receive a Final Notice as they failed to bring their instalments up to date. In April 2023 8,839 Non-Domestic Rates Bills were issued. In May 2023, 6% of the 7,390 customers that were pursued failed to pay their Rates instalment and received a reminder from which 74% went on to receive a Final Notice as they failed to bring their instalments up to date. Members supported the increased flexibility in approach while needing to maximise collection rates. In response to a question the Director confirmed that bills from all local authorities had been issued later this year due to late legislative changes which had proven challenging to get software updated, but they would be issued in a more timely manner in future.

DECISION

AGREED to approve the Council Tax and Non- Domestic Rates Recovery Policy, as contained in Appendix 1 to the report, and that it take immediate effect.

MEMBER

Councillor Smart rejoined the meeting.

9. **BORDERLANDS INCLUSIVE GROWTH DEAL - BUSINESS INFRASTRUCTURE PROGRAMME - COLDSTREAM FULL BUSINESS**

With reference to paragraph 10 of the Minute of the meeting held on 26 November 2020, there had been circulated copies of a report by the Director Resilient Communities providing an update to Council on the Full Business Case for the Business Infrastructure Programme (Scotland) - Coldstream, which was required to draw down funding from the Borderlands Inclusive Growth Deal. Coldstream was the first site in the programme outlined in the Outline Business Case, which was approved by Council in November 2020, to be brought forward for approval. A second site in the Scottish Borders, at North Burnfoot in Hawick, was also in the programme. A Full Business Case for the Business Infrastructure Programme (Scotland) - Coldstream was in the process of being approved by the Scottish Government and would be submitted to the Borderlands Partnership Board for approval at its meeting on 13 September 2023. An advanced final draft of the business case was attached as Appendix 1 to the report. Approval from the Scottish Government had been expected before the meeting and it was hoped that it would be received soon. The Full Business Case was the final part of a continuous set of approval milestones for the programme in accordance with HM Treasury Green Book guidance. A Full Business Case for the Hawick site would be developed and a report brought to Council in due course. Members welcomed the report and in response to a suggestion that a letter be sent to Scottish Government if a decision was not received by the end of the day, the Director confirmed that they were in regular conversation with both Scottish Government and partners and expected a response soon. However, she confirmed that she would write if matters did not progress as expected. In response to a question on occupancy rates the Director confirmed that work was ongoing across the Scottish Borders and the need for the right units in the right area was highlighted.

DECISION

- (a) AGREED to approve the Full Business Case for the Coldstream site set out in Appendix 1 to the report.**
- (b) NOTED that the Full Business Case on the Hawick site would be presented to Council in due course.**

DECLARATION OF INTEREST

Councillor Rowley declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct as he had a relationship with the funders and left the meeting during the discussion.

10. BORDERLANDS INCLUSIVE GROWTH DEAL - NATURAL CAPITAL PROGRAMME BUSINESS CASE

With reference to paragraph 10 of the Minute of the meeting held on 26 November 2020, there had been circulated copies of a report by the Director resilient Communities providing an update to Council on progress with the Programme Business Case for the Natural Capital Programme, which was required to draw down funding from the Borderlands Inclusive Growth Deal. The overall aims of the programme were to demonstrate the need to deliver innovation in land use management through a series of initiatives comprising 6 pilot projects in the South of Scotland. The Programme Business Case, a copy of which was contained in Appendix 1 to the report, had been approved by the Scottish Government, and would be submitted to the Borderlands Partnership Board for approval at its meeting on 13 September 2023. The Programme Business Case was part of a continuous set of approval milestones for the programme in accordance with HM Treasury Green Book guidance. The initial Natural Capital Strategic Proposition was brought to Council in November 2020 and the pilot business cases described in the Programme Business Case would be brought before Council in due course. Members noted that land was the biggest asset in Scottish Borders covering a number of areas including farming, forestry and tourism and the Council needed to be a change leader in this area, including ensuring that local communities shared in the benefits, not just external investors. In response to a discussion on the importance of trees being located in the right place it was noted that the Borders Forest Trust was part of the partnership and would be involved in pilots. The possible need for national policy changes regarding forestry was also being looked at and the importance of balance was highlighted.

DECISION

- (a) AGREED to approve the Programme Business Case, as set out in Appendix 1 to the report, as the next stage of approval for the programme.**
- (b) NOTED that individual Business Justification Cases were being finalised for the Species Rich Grassland (and Solway Marine and Whole Farm Audit) projects. A Full Business Case was being finalised for the Woodland Creation project. These business cases would be brought before Council in due course.**

MEMBER

Councillor Rowley rejoined the meeting.

11. PEEBLES HIGH SCHOOL NEW BUILD PROJECT UPDATE

With reference to paragraph 7 of the Minute of the meeting held on 28 January 2021, there had been circulated copies of a report by the Director Infrastructure and Environment providing an update on the progress with the new Peebles High School project following the statutory and procurement stages and recommending proceeding to construction. The report explained that Planning consent was granted in July 2022. This allowed the project to proceed to develop the detailed design, undertake community engagement and conclude the procurement. These stages were now complete and the

project was ready to proceed to construction. However, given the current volatile construction market conditions, the overall tender return figure by BAM Construction Ltd was some £10.9M above the budget included within the February 2023 Capital Investment Plan. The project team had undertaken a review of specifications and materials within the project to see if changes could be made and this process still continued. Members noted the cost increase caused by construction inflation but confirmed their support for the project and the opening date of the end of 2025. Members commented on the excellent new sports facilities which had already opened.

DECISION

(a) NOTED:-

- (i) the progress of the project through the statutory planning stage, community engagement and the completion of the detailed design and procurement stage; and**
- (ii) the current budget position that, as a result of the procurement stage, was £10.9M above budget.**

(b) AGREED:-

- (i) to delegate to the Director Infrastructure & Environment in conjunction with the Director Finance & Procurement the authority to conclude the contract with Hub South East Scotland Ltd at a project budget no greater than £61.0M allowing the project to proceed to construction;**
- (ii) that the projected costs were in excess of the approved budget and that this would be addressed within the capital planning process for 2024/25 and future years consistent with the strategy adopted previously for Galashiels Academy and Earlston Primary School projects; and**
- (iii) that update reports be provided as the project proceeded.**

MEMBER

Councillor Moffat left the meeting.

12. INTEGRATION JOINT BOARD DIRECTIONS - JULY 2023

There had been circulated copies of a report by the Chief Officer Health and Social Care providing an update to the Scottish Borders Council on the Directions issued to the Scottish Borders Council from the Health and Social Care Integration Joint Board in their July 2023 meeting. The Direction issued by the Integration Joint Board in July 2023 related to Surge planning for unscheduled care for the forthcoming winter period. In response to a request for a detailed breakdown of staffing the Chief Officer confirmed this could be provided and commented on the issues of rurality, aging population and the need to streamline services and advised that the workforce planning group was looking at this.

DECISION

NOTED the Direction issued by the Health and Social Care Integration Joint Board to the Scottish Borders Council.

13. TACKLING THE BARRIERS EXPERIENCED BY CARE EXPERIENCED PEOPLE IN SCOTTISH BORDERS

With reference to paragraph 14 of the Minute of meeting held on 24 November 2022, there had been circulated copies of a report by the Director Social Work and Practice in response to the Motion by Councillor Anderson and seconded by Councillor Ramage in support of making care experience a protected characteristic for Scottish Borders Council. A decision had been taken to amend the Motion so that no further action was

taken until a report was presented by the Director of Social Work and Practice on the barriers faced by Care Experienced People and how the Council could address that. The report explored the work that was currently being undertaken to tackle the barriers experienced by care experienced people (Care experienced people is used to describe anyone who is currently, or has been, in the care system. For example, kinship care, looked after at home, foster care, residential care, secure homes, and adoption) and further action the Council could take overcome these. Councillor Anderson, seconded by Councillor Ramage, moved as an amendment that additional wording be added to the recommendation at paragraph 2.1(b) “.. and the outcome of this engagement will be reported back to Council in due course”. Members agreed to accept this addition.

DECISION

AGREED that in recognition of the Council’s commitment to the Promise and responsibility as corporate parents to take positive action to improve the lives of care experienced children and create communities where all children had the right to grow up loved, safe and respected:-

- (a) that Scottish Borders Council voluntarily ensure that Care Experience was considered in strategic decision making by amending the Integrated Impact Assessment process to include Care Experienced individuals; and**
- (b) as part of the work the Children and Young People’s Planning Partnership (CYPPP) was doing to deliver The Promise and ensure Corporate Parenting responsibilities were met, the Council would engage with care experienced individuals to ascertain their views on Care Experience being a recognised protected characteristic under the Equality Act (2010), and the outcome of this engagement would be reported back to Council in due course.**

14. SHORT TERM LETS LICENSING SCHEME

With reference to paragraph 12 of the Minute of the meeting held on 24 November 2022, there had been circulated copies of a report by the Director Corporate Governance on the outcome of the review of the Short Term Lets Licensing Policy which Council agreed at its meeting last November. The report explained that the short term lets licensing policy of the City of Edinburgh Council was recently challenged by a Judicial review in the Court of Session. The Court determined that there were certain parts of the City of Edinburgh Council’s policy which were unlawful in a number of material respects. As a consequence, the Association of Scotland Self Caterers in conjunction with their solicitors were currently reviewing the short term lets licensing policies of all local authorities in Scotland. Following the completion of these reviews there is a possibility that the short term lets licensing policies of other local authorities, including the Council’s, could similarly be challenged by way of a judicial review. In particular, the Court of Session judgement in the City of Edinburgh Judicial Review highlighted that policies which included additional conditions relating to the use of watercraft, provision of bicycles and outdoor play equipment may be in contravention of the Provision of Services Regulations 2009 and therefore subject to challenge. In order to reduce the risk of a challenge by Judicial Review it was proposed to remove the additional conditions from the Council’s policy and replace it with the wording as highlighted under the heading of “Guest Safety- additional services or equipment” in the Additional Conditions section of the Council’s policy as detailed at Appendix 1 to the report. This wording was consistent with that now being used by some other local authorities whose initial policies contained these additional conditions. Members discussed the proposals and whether a 50% fee reduction met the spirit of a “token fee”. The Director advised that the fees had been set with a view to cost recovery but without knowing the volume of likely applications a “best guess” approach had been taken.

VOTE

Councillor Parker, seconded by Councillor Thomson, moved that the recommendations in the report be approved.

Councillor Pirone, seconded by Councillor Tatler, moved as an amendment that the recommendations contained in the report be amended to read as follows:-

- (a) “Notes the reasons for the proposed amendments and thereafter approves the amendments to the policy as detailed at Appendix 1, subject to the undernoted qualifications:
- (i) Paragraph 10.2 of the Appendix is amended to add a second bullet point which states “for holiday home swap purposes”;
 - (ii) The final line of the table at Paragraph 17 (Fees) of the Appendix is amended to achieve the following:
 - (1) The fee for a temporary exemption is set at 1/3 of the full price; and
 - (2) Where a temporary licence has been granted, and the applicant applies for a permanent licence within the relevant 6 week period, the fee for that permanent licence will be discounted in the amount of the fee paid for the temporary licence.(with the precise wording of these changes delegated to the Director of Corporate Governance).
- (b) Thereafter instructs the Director of Corporate Governance to adopt the amended policy with immediate effect, subject to the above amendments; and
- (c) Instructs the Director of Corporate Governance to bring a further paper to Council to provide clarity on whether the 6-week period of an exemption needs to be a continuous period and whether it is necessary to apply all of the mandatory conditions to such a temporary exemption.”

On a show of hands Members voted as follows:-

Motion	-	6 votes
Amendment	-	21 votes

The amendment was accordingly carried.

DECISION

DECIDED to:-

- (a) **note the reasons for the proposed amendments and thereafter approve the amendments to the policy as detailed at Appendix 1 to the report, subject to the undernoted qualifications:**
- (i) **Paragraph 10.2 of the Appendix be amended to add a second bullet point which stated “for holiday home swap purposes”;**
 - (ii) **The final line of the table at Paragraph 17 (Fees) of the Appendix was amended to achieve the following:**
 - (1) **The fee for a temporary exemption was set at 1/3 of the full price; and**
 - (2) **Where a temporary licence had been granted, and the applicant applied for a permanent licence within the relevant 6 week period, the fee for that permanent licence would be discounted in the amount of the fee paid for the temporary licence.**(with the precise wording of these changes delegated to the Director of Corporate Governance);
- (b) **instruct the Director of Corporate Governance to adopt the amended policy with immediate effect, subject to the above amendments; and**
- (c) **instruct the Director of Corporate Governance to bring a further paper to Council to provide clarity on whether the 6-week period of an exemption**

needed to be a continuous period and whether it was necessary to apply all of the mandatory conditions to such a temporary exemption.

DECLARATIONS OF INTEREST

Councillors PatonDay, Richards and Weatherston declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct as they were Members of the Live Borders Board and left the Chamber during the discussion.

15. **LEISURE CENTRE WORKS**

There had been circulated copies of a report by the Director of Finance and Procurement which had been approved under the emergency powers procedure to allocate funding to urgent works required at the Gytes Leisure Centre in Peebles and the Public Swimming Pool in Eyemouth Leisure Centre. The funding was part of the normal block allocation to Live Borders. This type of expenditure required approval by the Executive Committee but due to the urgency of these works, the anticipated lead in times to deliver and install the necessary plant and equipment, and the lack of an appropriate committee due to the summer recess approval had been granted under the emergency powers process. Members expressed disappointment that an emergency powers approval had been needed as these issues should have been dealt with at an earlier date when the problems had first been identified or at the same time as other repair works. Concern was also expressed regarding the maintenance of all buildings managed by Live Borders. Members were reminded that there was currently a review of Live Borders.

DECISION

NOTED that approval had been given to fund £131,000 of works from the capital grant allocation to Live Borders to replace the boilers at the Gytes Leisure and approval given to fund further works totalling £198,000 to replace the air handling units and heating controls at the Eyemouth Leisure centre under emergency powers.

MEMBERS

Councillors PatonDay, Richards and Weatherston rejoined the meeting. Councillor Marshall left the meeting.

16. **REPRESENTATIVES ON OUTSIDE BODIES**

It was noted that Councillor Parker considered that the position on the COSLA Health and Social Care Board should transfer to Councillor Weatherston as he already regularly attended meetings when Councillor Parker was unavailable. Councillor Jardine, seconded by Councillor Parker, moved the appointment of Councillor Weatherston and this was unanimously approved.

DECISION

AGREED that Councillor Weatherston replace Councillor Parker as the Council's representative on the COSLA Health and Social Care Board.

DECLARATION OF INTEREST

Councillor Cochrane declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct as she owned a Post Office and left the meeting during the discussion.

17. **MOTION BY COUNCILLOR GREENWELL**

Councillor Greenwell, seconded by Councillor Sinclair, moved approval of the following Motion as detailed on the agenda but with amendments regarding where the representations should be sent:-

“Given the announcement of more Bank closures due to take place within the Scottish Borders and the suggested solution being the setting up of Bank Hubs along the lines of the current post office setup, Scottish Borders Council acknowledges that this could put

extreme pressure on Post Office businesses across the Borders. The Council therefore agrees to instruct the Council Leader to write to the Chief Executive of Post Office UK and the Minister for Enterprise, Markets & Small Business with responsibility for Post Offices expressing Scottish Borders Council's support for Postmasters' remuneration to be brought in line with the remuneration that Banks receive which will help make Post Offices thriving local businesses."

Councillors Greenwell and Sinclair spoke in support of the Motion which was unanimously approved.

DECISION

AGREED to approve the Motion as detailed above.

MEMBER

Councillor Cochrane rejoined the meeting.

18. OPEN QUESTIONS FROM COUNCILLORS

The questions submitted by Councillors Anderson, Ramage, Sinclair, Begg and Thornton-Nicol were answered.

DECISION

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

19. OPEN QUESTION FROM MEMBER OF THE PUBLIC

The following question was submitted by Mr Stitt, resident in the Selkirkshire Ward:-

"What is being done to stop gangs of youths cycling inside the transport hub in Galashiels? They have no regard for anyone's safety and it is only a matter of time before an old person or a disabled person cannot move out of their way quickly enough."

Councillor Pirone, Executive Member for Community and Culture, gave the following answer:-

"I would like to thank Mr Stitt for submitting this question to the Council which was also the first question received since public questions had been introduced.

There have been a number of incidents recently of young people riding bikes and scooters inside the transport interchange in Galashiels.

The council does not condone this behaviour which is unacceptable and presents a danger to members of the public and the young people themselves using the Interchange.

Cycling or skating is not permitted within the footprint of the building. Whenever there have been incidents council officers have intervened as required.

Going forward the Council will now examine the installation of CCTV recording equipment within the interchange with appropriate signage to deter such behaviour. The Council will also continue to monitor the situation and look at further measures if required.

As Chair of Police Community Action Team operational group I have already raised this matter with Police Scotland Colleagues and requested that they increase their physical presence in the building as resources allow. We will also ask Headteachers in Galashiels to remind young people that cycling and skating within the Interchange is prohibited.

The Council staff presence within the Interchange after 6.30pm is very limited with only one team member on shift. Any dangerous behaviour would be reported to Police Scotland to deal with the situation."

DECISION

NOTED the reply.

DECLARATIONS OF INTEREST

Councillors Pirone and Tatler declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct due to their involvement with the Eastgate Theatre and left the Chamber during the discussion.

20. **EASTGATE THEATRE, PEEBLES**

There had been circulated copies of a report by the Director Finance and Procurement which had been approved under the emergency powers procedure. The report has sought approval for a loan of £120,000 to support the cash flow of the Eastgate theatre in Peebles. The Theatre had recently appointed a new manager on a temporary basis and was working to embed a new business plan to develop a more commercial events programme to place the Theatre on a more sustainable financial footing. In response to concerns expressed by Members regarding the future viability of the Theatre, the Chief Executive confirmed that they had appointed specialist consultants to assist with the turnaround. It was noted that the Theatre was a valuable asset for the Borders but that public support was needed to ensure a long term future. Some concern was also expressed regarding the need for this to be approved under emergency powers and it was explained that there had been a number of discussions with Board Members before final approval had been given. In view of the comments made the Convener asked the Chief Executive to review the emergency powers procedure to ascertain if any additional criteria needed to be added.

DECISION

NOTED that up to £120,000 in the form of an interest free cash flow loan had been authorised to the Eastgate Theatre in Peebles. The loan was re-payable over 4 financial years commencing from 1 April 2024.

21. **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

22. **MINUTE**

The private section of the Council Minute of 29 June 2023 was approved.

23. **COMMITTEE MINUTES**

The private sections of the Committee Minutes as detailed in paragraph 4 of this Minute were approved.

DECLARATION OF INTEREST

Councillor Rowley declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct as he had a relationship with the funders and left the meeting during the discussion.

24. **BORDERLANDS INCLUSIVE GROWTH DEAL - MOUNTAIN BIKE CENTRE FULL BUSINESS CASE**

Councillors approved a report by the Director Resilient Communities containing the full Business Case for the Mountain Bike Centre.

The meeting concluded at 2.30 pm

**SCOTTISH BORDERS COUNCIL
31 AUGUST 2023
APPENDIX I**

OPEN QUESTIONS FROM COUNCILLORS

Questions from Councillor Anderson

1. To Executive Member for Education and Lifelong Learning

On 11th August elected members, SBC staff, DYW (developing the young workforce) and Borders College heads met about future working together. Many issues were discussed and some fantastic ideas to move forward with. The need for Agricultural training facilities was raised and the lack of facilities in Berwickshire.

Will the Administration agree to look at Gunsgreen Hill farm buildings in Eyemouth and the adjacent SBC owned agricultural land, for a future development with Borders College of an agricultural training facility?

The future employability of our young people is paramount and Berwickshire is in great need of hands on college courses closer to home.

Response from Councillor C. Hamilton in the absence of Councillor L. Douglas

Training and employment in all areas of agriculture are a critical pathway for our young people and working in partnership with for example Borders College and SRUC will be vital for successful delivery.

There are different delivery models available to provide training, including through creating work based learning experiences in partnerships with commercial farmers for example, and there are successful models in similar industries to learn from.

As the partnership planning develops, Officers will consider options including discussions with Borders College about the best way to deliver agricultural training in the region. At this point in time it is not possible to commit to examining the Gunsgreen Hill farm buildings in Eyemouth although this may provide one option for evaluation going forward. Officers will arrange a discussion on this matter with Borders College as soon as possible.

2. To Executive Member for Service Delivery and Transformation

At a meeting of Eyemouth town team on Monday 14th August a presentation was given on the cemetery extension. The plan was not as expected, and no prior information was given to the elected members.

What policy is in place to ensure Elected members are consulted effectively on decisions that affect their constituents? Specifically, is there a policy stating ward members should be consulted and if so what time scale is given if one exists.

Response from Councillor Rowley

Part 15 of the Elected Member Officer protocol which has been approved by Council details the circumstances in which elected Members will be consulted or advised about matters affecting their Ward. Bearing in mind the principle role of elected members is to set strategy and major policy decisions there may from time to time be matters in respect of which Members will not necessarily be engaged prior to an event taking place.

Part 15 says that Members will be consulted on “specific matters of interest to them as local Members.” It goes on to detail that this may include, for example: “Whenever a public meeting is organised by the Council to consider local issues, all Members representing the Ward(s) affected must be invited to attend. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local Members must be notified and, where appropriate, the views of the Members should be requested.

Members must be consulted on all significant new projects or initiatives in their Ward at the planning stage, in order that their views may be taken into account.”

It details that Members must be consulted on issues of substantial or significant interest to their local communities.

In this particular occasion Officers had formed the view that the Town Meeting was an ongoing process and there was no need to pre-meet with the local Members. While this may have been an error on their part, Officers will always do all that they can to ensure local Members are appropriately engaged in those significant matters affecting their Ward.

Question from Councillor Ramage

To Executive Member for Education and Lifelong Learning

How many teachers are currently on temporary contracts across the Scottish Borders?

Response from Councillor C. Hamilton in the absence of Councillor L. Douglas

In total SBC employ 1,120 teachers, of this 982 have permanent contracts. This includes more than 20 newly qualified teachers who have completed their probation and are now employed on permanent contracts. There are currently 138 teachers employed on a temporary basis. Of these 47 are newly qualified teachers now on their probationary year and our obligations to accommodate probationers means that there are a number of positions held for this purpose.

The remaining temporary positions are mostly providing backfill to permanent staff who are on maternity leave, absent due to ill health or on secondment.

While for the reasons given there will always be staff who are employed on a temporary basis, we are committed to ensuring that the number of posts which are temporary is kept at a minimum and that every opportunity to retain staff in permanent positions is taken.

Supplementary

Councillor Ramage asked if more detail could be provided and Councillor Hamilton advised she would ask officers if this could be done.

Questions from Councillor Sinclair

To the Executive Member for Estate Management and Planning

1. In line with the decision taken on 30th March 2023 that Stow would have public toilet provision, what actions have been taken to provide such a facility?

Response from Councillor Mountford

The public toilets in Stow were closed in 2020 in response to the Covid-19 pandemic and public safety measures at the time. The building was, and has continued to be, in a state of disrepair. The costs of repair to the toilet block in Stow have been assessed as prohibitive.

Since Council approved the report in March, an officer working group have been progressing the agreed actions. With regards to Stow, officers have been in active discussion with the community regarding opportunities for public toilet provision within community or private venues and these discussions are ongoing.

Supplementary

Councillor Sinclair advised that the matter had been raised at the Community Council as they had not been consulted and asked that assurance be given that that they would be consulted in any future discussions. Councillor Mountford confirmed that this would be done.

2. What was the cost of providing temporary toilets at Bank Street, Galashiels, for the Braw Lad's Gathering in 2023.

Response from Councillor Mountford

The cost of supplying 12 temporary toilets at Bank Street Gardens for the Braw Lads Gathering in 2023 was £1520 ex VAT.

Supplementary

Councillor Sinclair asked who had paid for this and would this be a recurring cost. Councillor Mountford confirmed he would check with officers. Councillor Jardine advised that the cost had been met from pay parking monies with Councillor approval.

To the Executive Member for Education and Lifelong Learning

3. Scottish Borders Council is currently advertising for six head teachers, including at two of our eight high schools.

Is this vacancy level due to natural staff turnover / retirement, or does it point to a wider recruitment / retention issue at Scottish Borders Council?

Response from Councillor C. Hamilton in the absence of Councillor L. Douglas

The current vacancies for 4 primary and 2 secondary head teacher posts are being advertised for the following reasons:

- 3 – postholders retired
- 1 – postholder promoted to more senior role
- 1 – postholder resigned as moving home
- 1 – postholder was successful in securing position in another authority

We have a strong recruitment plan with advertising campaigns and open sessions to ensure the strongest possible candidates are recruited. While we have a good track in attracting new leaders to Scottish Borders, and our success with Inspire Learning and Professional Development makes us an attractive employer, we recognise that there are high numbers of school leaders reaching retirement age nationally and we expect there to be further vacancies. There is no issue with recruitment or retention of teachers at SBC.

Supplementary

Councillor Sinclair asked what was being done to support teachers to move into headship roles. Councillor Hamilton advised that there was lots of support and she would ask officers to provide details.

Questions from Councillor Begg

To the Executive Member for Environment and Transport

1. Can the Executive Member advise whether they receive an annual report of the incidence of sewage overflow in Scottish Borders from Scottish Water as part of the Council's public health duties? If not, does the Executive Member think that it would be prudent to do so going forward?

Response from Councillor Linehan

Whilst a specific annual report for the Scottish Borders is not produced, Scottish Water publish data relating to all monitored overflows in Scotland on their [website](#) as part of their commitment to improving reporting and monitoring of sewage overflows. This report contains details of overflows between 2018 and 2022 and work is underway to include near real time reporting of overflows from the end of 2024.

Scottish Water also report all actual and potential pollution incidents to SEPA via their Environmental Pollution Incident Reporting process, as per licence conditions.

Supplementary

Councillor Begg asked if Councillor Linehan had any worries about the accuracy of reports and she advised that she would need to check with officers.

2. Can the Executive Member advise what plans there are to manage Ash dieback, in particular the issue of diseased trees beside our roads? Can you advise what additional resource, if any, has been allocated to deal with the effects of this devastating tree disease?

Response from Councillor Linehan

If SBC suspect that there may be a case of Ash Dieback, Council Officers report this to Forestry Scotland's regional Area Plant Health Officer. This is also who Officers notify for Sudden Oak Death and other notifiable pathogens like Great Spruce Bark Beetle. As far as we are aware there have been no Ash Dieback cases to date.

Forestry Scotland manage a national database for diseases along with details of restrictions and co-ordinated movement for timber production in this regard.

We continue to run the risk assessment for trees on Council owned and maintained land, and any issues identified are addressed by approved contractors on the procurement framework.

Regarding Ash Dieback, we take advice from Scottish Government guidance and participate in the Scottish Tree Officer Group (STOG) who assess the risks provide regular information and updates including webinars, CPD and best practice. This group has an Ash Dieback working group with Council Officers are involved in and there is also a new knowledge hub set up to advice tree officers.

Supplementary

Councillor Begg noted that there had been no mention of additional resources and asked if the Executive Member would meet with him to discuss further. Councillor Linehan confirmed she would be happy to meet him with appropriate officers. The Chief Executive confirmed that there was no additional budget and it was being managed within existing resources.

Questions from Councillor Thornton-Nicol (asked by Councillor Sinclair in the absence of Councillor Thornton-Nicol)

1. To the Executive Member for Social Work and Community Enhancement
Can family members order TEC items from SBCares Equipment Service without going through the assessment and referral process?

Response from Councillor Weatherson

Members of the public can order TEC items from SBC through the self-referral process.

However, as the TEC team only have a budget to supply equipment with no cost to those clients who have an assessed need, SBC would look to recover the cost of any equipment provided.

Clients can self-refer by calling 01896 758 717 or e-mailing tec@scotborders.gov.uk

Supplementary

Councillor Sinclair comment on the position of foreign nationals who were not entitled to assessments and asked that it was ensured that there was a process where they could pay for equipment without an assessment. Councillor Weatherston confirmed he would raise this with officers.

2. To the Executive Member for Health and Wellbeing
What support is provided to a commissioned service for Adults with Learning Disabilities which receives a weak grading from the Care Inspectorate?

Response from Councillor Parker

In the event that a commissioned service for Adults with Learning Disabilities receives a weak grading, the lead Learning Disabilities commissioner will liaise with the provider to support and seek assurances that there is an effective recovery plan in place to respond to the Care Inspectorate findings. This will include liaison with the Care Inspectorate and the organisation's Board.

The approach is supportive and collaborative, and assists with the formulation of a recovery plan, and the associated implementation process.

Monitoring from the Lead Commissioner will be ongoing until standards have improved to an appropriate level.

This page is intentionally left blank