

SCOTTISH BORDERS COUNCIL
30 JANUARY 2020
APPENDIX I

Question from Councillor McAteer

To Executive Member for Adult Social Care

Having regard to the recent Court of Session decision (27 December 2019, 'Roy McHattie vs South Ayrshire Council'), which declared South Ayrshire Council's actions leading to the closure of Kyle Adult Care Centre as unlawful, can you explain what action was taken by Scottish Borders Council to

- (a) assure members that this council is not exposed to any similar unlawful conduct; and
- (b) that SBC has fully complied with all aspects of the Equality Act 2010 and the Carers Act (Scotland) 2016, with regard to the process and decisions taken to decommission day services in the Borders

Reply from Councillor Weatherston

Council officers are aware of the decision in the McHattie case. In that instance a decision by South Ayrshire Council was over turned by the Court because the court concluded the Council had failed in its Public Sector Equality Duty and failed to properly consult. SBC is very conscious of its duties under the Equality Act and its duties to involve service users and carers in the provision of the services. It seeks to comply fully with its legal obligations at all times.

The law requires the Council to conduct Equality Impact Assessments and such assessments have been carried out. This includes assessments which formed part of the budget papers in 2017 and was available to Members as part of the budget process. This assessment was completed before the review of day services in the Borders commenced. Further EIAs have been conducted as the proposals progressed to ensure the Council's continuing obligations were met.

Council officers are satisfied that the processes followed comply with the Equality Act 2010 and the Carers (Scotland) Act 2016.

It is considered that the risk of facing a similar successful challenge is unlikely for SBC, however officers (including the Chief Legal Officer) are examining the detail of the McHattie case and assessing our practices against that judgment to provide further certainty.

Supplementary

Councillor McAteer asked that Councillor Weatherston assure the carer groups that they would continue to receive an effective service in Hawick. Councillor Weatherston advised that the service was working well in other areas and he was confident that Hawick would receive an effective service.

Question from Councillor Paterson

To Executive Member for Children and Young People

Can the Portfolio Holder please tell me when the 60 year old windows will be replaced in the Classrooms of Drumlanrig St Cuthbert's Primary School in Hawick? On a recent visit with an officer from the Council to look at the state of the windows we were approached by a number of staff unhappy at the possible long term health problems for children and staff having to teach and learn in such damp conditions all day every day.

Reply from Councillor C. Hamilton

The windows at Drumlanrig Primary School were originally scheduled to be replaced during financial year 2022/23.

Following a further assessment of the condition of the windows, which have deteriorated more quickly than anticipated, the replacement programme has been accelerated and works are scheduled to be completed during calendar year 2020. The works will be undertaken in a phased manner, on a room by room basis, to minimise disruption to the school curriculum.

Questions from Councillor Bell

To the Leader

On 6th December you sent out a notification that Cllr Mountford was stepping down from his position as portfolio holder for Transformation & HR. Given the Improvement challenges facing this Council that is an important portfolio. Who now holds it?

Reply from Councillor Haslam

Me.

Supplementary

Councillor Bell asked why there was no permanent Executive Member appointment made. Councillor Haslam advised that she was looking at the current structure of Executive Members with a view to re-aligning them with the new Corporate Management Structure

To the Executive Member for Children and Young People

In line with statements made; there was, I understand, an evaluation done of the pilot in 3 schools of unstaffed libraries. Please could Councillors see the results of the pilot study and the conclusions drawn from it?

Reply from Councillor C. Hamilton

Council Officers have been progressing the plans for future delivery of school library services. A report will be brought to the earliest possible full Council in March 2020, which will contain the information from the evaluation, conclusions and recommended route forward for this service.

Supplementary

Councillor Bell asked that this decision be taken at the same meeting as the budget was being considered to allow for any budget implications. Councillor Hamilton advised that she would discuss with officers.

Question from Councillor Robson

To the Executive Member for Roads and Infrastructure

Can The Executive member advise what discussions if any, have been had with the Scottish Government about alterations to the Sheriffhall roundabout in Midlothian?

Reply from Councillor Edgar

I am not aware of any discussions taking place between the Scottish Government and Scottish Borders Council regarding this project.

The scheme is a Transport Scotland proposal as part of the City Deal and, as it is within Midlothian, I would imagine that they have been in discussions with that Council.

Supplementary

Councillor Robson asked that if in light of Scottish Government discussions regarding the proposed flyover not going ahead if any of the funds would be directed to schemes in the Scottish Borders. Councillor Edgar advised that he would investigate.

Question from Councillor A. Anderson

To Executive Member for Adult Social Care

Further to the decision to withdraw funding from Borderline, I have had sight of a letter from the Directorate for Mental Health (DMH) on behalf of the Minister regarding the decision to withdraw this funding. It states that the DMH has been informed that 'an Equalities Impact Assessment was completed by NHS Borders, as well as service user and wider stakeholder consultation...' Are you able to provide a copy of this assessment and documentary evidence of this service user and wider stakeholder consultation?

Reply from Councillor Weatherston

Please find attached the published Equalities Impact Assessment documentation as requested which references the stakeholder consultation.



EIA Stage 1 -

BORDERLINE published.



EIA stage 3

Borderline published.

Supplementary

Councillor Anderson asked if Councillor Weatherston considered that this demonstrated proper consultation for the withdrawal of this service. Councillor Weatherston advised that the evidence provided did warrant the decision and he was happy to discuss this further with Councillor Anderson.