
**IMPLEMENTATION OF ACTIONS IN RELATION TO THE INDEPENDENT
INQUIRY**

Report by Chief Executive

SCOTTISH BORDERS COUNCIL

10 MARCH 2022

1. PURPOSE AND SUMMARY

- 1.1 This report follows the conclusion of an Independent Inquiry into the Council’s handling of concerns raised about a former Scottish Borders Council employee, who was subsequently charged with five counts of assaulting children and a further charge of abusive behaviour at a school in the Scottish Borders.**
- 1.2 On 12 February 2022, Andrew Webster QC provided the Chief Executive with his completed investigative report (“the Inquiry Report”).
- 1.3 On 25 February 2022, Council accepted the recommendations contained within the Inquiry Report and noted that the Chief Executive would prepare an action plan to address the Inquiry recommendations.
- 1.4 This report explains the proposals contained in the action plan, which is attached as Appendix 1.

2. RECOMMENDATIONS

2.1 I recommend that the Council agrees:-

- a) to endorse the Action Plan (attached at Appendix 1) as adequately reflecting the work required to implement the Inquiry recommendations;**
- b) to agree to establish a Review Group, tasked with overseeing the performance of the action plan;**
- c) to delegate to Executive Committee the responsibility for receiving updates on the work of the Review Group and approving any resultant changes to policy or procedures;**
- d) to make available to the Chief Executive an initial budget of £150,000, from general reserves, for the purpose of achieving the work identified as being required in the action plan.**

3. BACKGROUND

- 3.1 On 25 February 2022, in public meeting, Andrew Webster QC presented to Council the recommendations of his investigation into the handling of concerns raised about an individual who was convicted of assaulting children at a school in the Borders, whilst in the employment of the Council. Mr Webster explained the basis of the ten recommendations contained in the Inquiry Report and Council took this opportunity to seek clarity from Mr Webster on a number of matters within the Inquiry Report.
- 3.2 During the discussion at Council on 25 February, Members made clear their deep concerns and regret as to what had taken place. Council recognised that the Inquiry report sets out an extremely difficult set of circumstances, and that the Council now has significant work to do to begin to build back trust with the families and wider communities across the Borders.
- 3.3 In recognising this need for improvement, Council approved all ten Inquiry recommendations and welcomed the Chief Executive's confirmation of her intention to prepare an action plan of how the Inquiry recommendations could be implemented across the Council. The need for expediency was stressed by Members and the Chief Executive was tasked with returning to Council on 10 March 2022 with a draft action plan for consideration. In addition to the work required to meet the Inquiry recommendations, Council instructed the Chief Executive to consider a number of wider issues when creating the action plan for change, and these are set out in the report below.

4. THE APPROACH OF THE ACTION PLAN

- 4.1 It is recognised that there is considerable value in the Inquiry Report insofar as it provides an informed timeline of events, as well as setting out a number of areas where the Council needs to undertake significant improvement. While it is important not to lose sight of the number of areas in the Inquiry Report that set out good practice and positive areas of service delivery, the full value of the inquiry can only be achieved if appropriate steps are now taken to improve the Council's future handling of any such similar cases.
- 4.2 When commissioning the Inquiry Report the Chief Executive emphasised the intention to foster a culture of learning and improvement across Scottish Borders Council, and this Inquiry provides a significant opportunity to reflect, and learn from what took place.
- 4.3 An action plan has been prepared, setting out the steps the Council needs to now take to address the identified failings, and to meet the Inquiry recommendations. It is recognised that some of the work set out in the plan has potentially far-reaching remits, in that it touches upon, not only the specific service areas mentioned within the Inquiry Report, but also has relevance across the entire breadth of the Council. Accordingly, it is anticipated that the action plan will grow and evolve as implementation progresses.
- 4.4 In addition, in order to ensure effective implementation, some of the Inquiry recommendations will need to be broken down into smaller manageable phases and steps. This will allow work to focus first on key areas of improvement that

have been the subject of the Inquiry (for example across areas of Education, HR and Child Protection), before moving onto the wider Council considerations.

- 4.5 It is further anticipated that areas beyond those currently highlighted in the action plan will be identified as suitable and appropriate for review as work progresses. Therefore, the action plan will not be set in stone and will evolve as work progresses.
- 4.6 In order to ensure that these improvements are achieved, it is considered necessary to put in place a system of governance and oversight which will remain in place until the Council can be satisfied that the necessary improvements have been established, implemented and tested successfully.

5. GOVERNANCE & OVERSIGHT

- 5.1 Given that the actions set out in the plan will be carried out over an extended period, it is important to have good governance in place to ensure the oversight of the delivery of improvements. As noted in the Council report of 25 February 2022, it is considered necessary to form a Review Group to steer the action plan and to be responsible for delivery of the identified actions.
- 5.2 All actions will be subject to approval and sign off by the Review Group to ensure that there is appropriate challenge and rigour to the plan. Where an action has multi-agency implications, the Review Group will agree the appropriate route for consultation with those agencies.
- 5.3 Whilst the exact Terms of Reference for the Review Group are to be completed, it will be chaired by the Chief Executive, given the strategic importance of the improvements needed. In addition, the Review Group will function in consultation with the Education Portfolio Holder Member. They will be invited to attend the Review Group meetings. Other staff who will form part of the Review Group will include the Director of Education & Lifelong Learning, the Director of Human Resources and the Director of Social Work & Practice.
- 5.4 The Review Group will meet fortnightly to discuss all aspects of the action plan. All work to be carried out under the action plan shall require approval by the Review Group, who shall consider the timescales, scope, and cost implications of any suggested activity.
- 5.5 It shall be the role of the Review Group to measure the effectiveness of all actions progressed as a result of the action plan and to consider whether such actions therefore adequately fulfil the identified objectives. Once satisfied that the actions are effective, the Review Group will report to Council in accordance with the process proposed in the paragraph below.
- 5.6 It is recognised that there will be significant public and Elected Member interest in the work of the Review Group. Therefore, in order to provide appropriate updates as to progress, the Review Group will report to the Executive Committee with a verbal update on a monthly basis, but will provide a full formal report on a quarterly basis. This will allow an opportunity to highlight areas of progress or concern. It will also allow the Review Group to seek approval for any material amendments to the action plan which, in delivering the actions, are identified as being necessary. Once the Review Group is satisfied that an action within the

plan is completed, it will bring the matter to the Executive Committee and seek approval to formally mark the said action as complete. This reporting will continue until the Executive Committee are satisfied that the actions detailed in the plan are fulfilled, and the Inquiry Recommendations implemented.

- 5.7 It is further suggested that Scrutiny Committee may like to add this to their work programme so that they can be satisfied as to the progress at a suitable point of their choosing.

6. MULTI AGENCY DEPENDENCIES

- 6.1 As noted in the Report of 25 February 2022, a number of Inquiry recommendations will require the input and approval of external agencies as they touch upon matters which fall within the statutory remit of The Scottish Borders Chief Officers Group (Critical Services Oversight Group) (CSOG). CSOG was established to provide leadership, governance and ensure local accountability for Public Protection matters, including having an overview of the multi-agency Inspections and associated action plans relating to public protection.
- 6.2 Police Scotland and NHS Borders share with the Council responsibility for public protection and therefore all actions to review the Child Protection Procedures will require consultation with, and approval of, the multi-agency Public Protection Committee, which itself is overseen by CSOG. The Chief Executive, as a member of CSOG, has advised and updated that group of the Inquiry recommendations and their context. On 21st February Mr Webster met with the CSOG core membership to discuss the Inquiry and its findings.
- 6.3 The members of CSOG have confirmed their collective support in reviewing and embedding any changes needed as a result of this Inquiry.
- 6.4 Separate to CSOG, it is anticipated that some changes to practice or process may require consultation with appropriate professional governing bodies, or trade unions. This contact, engagement and consultation will form part of the action plan. Further, it is recognised that there are external agencies who can offer valuable input and support to the review process across the range of identified actions. It shall be part of the function of the Review Group to ensure that adequate and appropriate consultation takes place, and that opportunities to observe best practice are captured. This will be particularly relevant with regards to approving changes, as it is important that wider benchmarking and checking takes place in order to ensure that any changes are appropriately robust and fit for purpose.

7. THE ACTION PLAN

- 7.1 In considering the actions needed, the plan aims to take a rights-based approach, where the rights of children, as individuals, is of paramount importance.
- 7.2 High-level strategic outcomes have been identified; essentially what the organisation is aiming to achieve by delivering the Inquiry recommendations. More information is set out below to provide a wider context to the action plan and the outcomes being targeted.

7.3 Inquiry Recommendations 1 and 2

- 7.3.1 These Inquiry recommendations relate to Scottish Borders Child Protection procedures and training, and set out that training needs to be improved to ensure a better understanding of the rights of children.
- 7.3.2 Across the Council training on child protection is already mandatory, but clearly the findings of the Inquiry highlight that there is more work to do to instil an understanding of the prime importance of the welfare of children. The action plan aims to achieve that greater understanding.
- 7.3.3 Moving forward both the training and procedures must reinforce the personal obligation to report, alongside an emphasis of child protection beyond the mitigation of immediate harm. In meeting these Recommendations, the objective is therefore to embed in staff an understanding of the fundamentals of child protection, in order to ensure the safety and welfare of children.
- 7.3.4 It is important to note that since the time when the matters at the heart of the inquiry occurred (2017/18) there has been new National Guidance published in respect of Child Protection (2021). The Council is therefore already working collectively with a number of other local Councils (namely City of Edinburgh Council, Midlothian Council, East Lothian Council and West Lothian Council) to update Child Protection Procedures in line with this new guidance. This work is already underway, led by an expert jointly commissioned by the five local authorities and is seen as a very positive step forward in aligning our policies across the region. This work is due to be completed by the summer of 2022 and therefore a number of streams from the Inquiry will need to feed into that work, as set out in the action plan.
- 7.3.5 Separately, the Chief Executive set up a number of Self-Evaluation and Improvement Groups in 2021 to start preparations for future statutory service inspections across Children and Adults Services. The work of these groups is ongoing, but there are clear overlaps with the action plan, and the Director – Social Work & Practice will ensure alignment across these matters.
- 7.3.6 These recommendations cannot be implemented without consideration of the wider issues that surround why staff did not feel they could report their concerns into the organisation. All staff need to feel supported and empowered in voicing any concerns, and there must be clear pathways and processes in place for them to do so. More is set out below at 7.8.4 to pick up this thread of work. However, changes to culture are not a quick fix, and are going to take significant time and effort from the Chief Executive and Strategic Leadership Team to really effect long lasting change.
- 7.3.7 Finally, as outlined above, the Child Protection Procedures adopted by the Council are a multi-agency document, and any review or amendment will require consultation with, and approval of these other agencies.

7.4 Inquiry Recommendations 3, 4, 5 and 6

- 7.4.1 These Inquiry recommendations relate to the Council's disciplinary procedures and practices. In particular, they recommend, amongst a number of things, that there is a requirement to refer any conduct involving children to the Child

Protection Unit irrespective of the severity of the matter. In addition, they recommend that any appointment of Investigating Officers is formalised and appropriate training put in place, alongside a review of the definitions of misconduct and gross misconduct in respect of conduct towards children.

- 7.4.2 The overall aim of these recommendations is to ensure that the Council has a fair and robust disciplinary system that, in its design and operation, has safeguarding measures in place to ensure that wider considerations are reflected upon at the appropriate time. This is in relation to managers ensuring that they are fully considering if there are child protection issues, regulatory matters or issues of criminality that need to be considered as part of any disciplinary process.
- 7.4.3 Whilst on the face of it these changes to policy may appear to be straightforward, (and indeed some of the changes have already been drafted for change at the time of writing this report) the importance of ensuring the changes are understood and embedded across the organisation is paramount. In addition, some of the Inquiry recommendations require changes to the way data is handled, and where information is recorded, and again this will need to be carefully considered.
- 7.4.4 There is also a recommendation that we consider specific training for all investigators who conduct disciplinary investigations. Currently all HR staff have completed a 3 day investigation training programme, and this will be offered to the wider organisation to reflect the recommendation. However, it is likely that the focus, depth and outcomes of this Inquiry will not lend to a significant uptake of managers to get involved in this area in the immediate term. Therefore, it is recognised that flexibility will need to be built into the process, as well as the input of external resources if required in the short term, to help with such matters.

7.5 **Inquiry Recommendations 7 and 8**

- 7.5.1 Inquiry recommendations 7 and 8 relate to communication between Education services and parents. In particular, it is recommended that the Council reviews its practices in liaising with parents of children with communication challenges; and that it reviews its position on what information can be disclosed when the concerns as to the welfare of children are raised that also involve staff.
- 7.5.2 The aim in implementing these recommendations is to empower families and to ensure that the welfare of children is of paramount consideration. The Council, in its care of any child, acts in a position of a parent or carer at times, and the rights of parents to have access to information necessary for them to fulfil their responsibilities to their own children is of the utmost importance.
- 7.5.3 In establishing protocols, a balance will need to be struck between the rights of the parents and the rights of any other individual. Professionals in our child care settings are well positioned to exercise their discretion in achieving this balance and training, policy and support is required to fully enable these staff to make such decisions.

7.6 **Inquiry Recommendation 9**

7.6.1 This Inquiry recommendation concerns management decision making and record keeping. It is clear from the findings of the Inquiry Report that in the particular circumstances which gave rise to the Inquiry, there was a dearth of recorded decision making. The result of that insufficiency was that, with the passage of time, in particular, it was not possible to ascertain why certain decisions were made.

7.6.2 In addressing Council, and in his written report, Mr Webster QC was clear that there were different recollections of some matters by the people he spoke to, meaning that he was unable to conclude exactly what took place. Effective notes, decisions, or even emails that confirmed the outcomes of discussions, and decisions made would mean such differing recollections would be easier to clarify.

7.6.3 Clearly, decisions are made across the Council on a daily basis and these decisions will vary in complexity and significance. In acting on this recommendation, the objective will be to ensure that, for the protection of the Council, its staff, and its service users/residents, and to allow continuous improvement across our service provision, actions and decisions are made following appropriate advice and on the basis of reasoned applications of judgement. Therefore, the focus of the action plan will be in relation to areas of data management highlighted in the Inquiry Report, namely data management and recording through disciplinary matters and with regards to matters involving children.

7.6.4 However, Council should be assured that wider pieces of work will be considered on this matter as part of continuous improvement. Council should also note the existing piece of work that has already commenced as part of our own transformation programme, which aligns to this recommendation relating to Enterprise Mobility, Enterprise Information and Process Simplification and Automation.

7.7 **Recommendation 10** refers to a discrete task concerning the Council's reporting requirements under the Protection of Vulnerable Groups (Scotland) Act 2007 which will be progressed expeditiously as set out in the action plan.

7.8 **Additional Objectives**

7.8.1 It is recognised that areas beyond those highlighted in the Inquiry recommendations are suitable and appropriate for review in light of the findings of the Inquiry and the Chief Executive has set out these in the action plan.

7.8.2 The Chief Executive reported in June 2021 that Education Scotland had been invited to engage with the Council in respect of a review into the quality of provision across complex needs settings, and it is considered appropriate to engage further with Education Scotland now that the Inquiry has concluded.

7.8.3 In considering the Inquiry Report on 25 February 2022, Council additionally noted areas where it would welcome review and improvements and some of these additional items are identified in the action plan to reflect those discussions. However, it is important to note that not all matters or concerns raised are

endemic across the organisation. For example, the Inquiry Report mentions one example of a lack of candour between Officers and Elected Members. Whilst this is a matter of regret to the Chief Executive, it is not considered indicative of a wider issue, and indeed, the Chief Executive has received no complaints of any failure by officers to keep Members adequately and appropriately informed of operational matters.

- 7.8.4 The additional matters which the action plan does outline as being appropriate for review include actions aimed at:
- i)** ensuring staff across the organisation feel empowered to raise conduct concerns relating to any fellow employee;
 - ii)** creating opportunities for staff feedback on the culture of the organisation which may be used to address issues and drive improvements;
 - iii)** ensuring that Elected Members are sufficiently trained in matters of Child Protection;
 - iv)** reviewing the quality of provision across complex needs settings, to include consideration of training and staffing ratios.

8. STAFFING MATTERS

- 8.1 Staffing matters were not within the scope of the Inquiry and therefore will not form part of the action plan. The Chief Executive, as Head of Paid Service, will consider the Inquiry report and determine whether any further disciplinary action is required to be taken in respect of its findings. This is a matter for the Chief Executive to determine, and will not form part of any future reporting process.

9. IMPLICATIONS

9.1 Financial

- 9.1.1 From the work identified in the action plan to date, it is evident that the greatest resource requirement is in respect of training. Therefore the following posts are proposed:

2 X Temporary (1 Year) Trainer Posts - £99432
1 X Education Officer (part time within the CPU) - £34000

- 9.1.2 The Chief Financial Officer has indicated that, if Council agrees to this expenditure, these costs could be met from the general fund reserves.

- 9.1.3 However, it is anticipated that further work may need to be developed in areas not yet within the action plan. In such circumstances, should additional funding be required, a report setting out the clear areas in question and resource required would come back to Council.

- 9.1.4 It should be noted that there is already circa £250k budget on training across Education, and therefore this is where much of the existing training is funded from. Obviously, we will consider how this existing budget is apportioned as part of this work to ensure that all training is as effective as possible.

9.2 Risk and Mitigations

- 9.2.1 The Council has both statutory duties and common law duties of care to pupils in its schools, and to its own staff. The best way to mitigate the risk of breaching

these duties, is to implement the recommendations resulting from the inquiry, so that the Council can determine how best to learn from any errors or omissions in the way the Council works.

9.3 Equalities

9.3.1 No adverse equality implications are anticipated as a result of the inquiry.

9.4 Acting Sustainably

9.4.1 There are no economic, social or environmental effects of carrying out the proposed inquiry.

9.5 Carbon Management

9.5.1 There will be no impact on the Council's carbon emissions from commissioning an inquiry into this matter.

9.6 Rural Proofing

9.6.1 A rural proofing check is not required for this matter.

9.7 Changes to Scheme of Administration or Scheme of Delegation

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

10. CONSULTATION

10.1 The Chief Financial Officer, the Chief Legal Officer and Strategic Leadership Team have been consulted regarding this report.

Approved by

Netta Meadows

Chief Executive

Author(s)

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Background Papers: Inquiry Report

Previous Minute Reference: Scottish Borders Council, 25 February 2022

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

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