

# **SCOTTISH BORDERS COUNCIL**

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells and Via Microsoft teams on 29 September 2022 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, E. Robson, M. Rowley, S. Scott, F. Sinclair, E. Small, A. Smart, H. Steel, R. Tatler, V. Thomson, E. Thornton-Nicol.

Apologies:- Councillors N. Richards, T. Weatherston.

In Attendance:- Director Education and Lifelong Learning, Director People, Performance and Change, Director Resilient Communities, Director Social Work and Practice, Director Strategic Commissioning and Partnerships, Chief Officer Health and Social Care integration, Acting Chief Financial Officer, Chief Legal Officer, Chief Roads Officer, Clerk to the Council.

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## **1. CONVENER'S REMARKS**

- 1.1 The Convener commented on the sad passing of HM The Queen and welcomed King Charles III to the throne. A moment of silence was observed.
- 1.2 The Convener congratulated Jacqueline McNeill and Rachel Stewart, managers within Customer Services, who had recently achieved their Institute of Revenues, Rating & Valuation Technician Qualifications in Local Taxation, Revenues & Welfare Benefits. Both received distinctions in their papers with Rachel also achieving the overall Scottish Award for best student of the year.
- 1.3 The Convener commented on Zander Murray, a footballer with Gala Fairydean who had spoken publically about being gay and reminded Members of the importance of the Borders being a fully inclusive area.

## **DECISION**

**NOTED and agreed that congratulation be passed to those concerned as appropriate.**

## **2. MINUTE**

The Minute of the Meeting held on 25 August 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:-

Planning & Building Standards	1 August 2022
Chambers Institution Trust	3 August 2022
Executive	16 August 2022
Peebles Common Good Fund	24 August 2022

## **DECISION**

**APPROVED the Minutes listed above.**

#### 4. **TWEED FLOOD RISK MANAGEMENT PLAN**

With reference to paragraph 5 of the Minute of 31 January 2019, there had been circulated copies of a report by the Director Infrastructure and Environment seeking approval of the Section 38 Final Reports for the Tweed, Solway and Forth Estuary Local Flood Risk Management Plans (LFRMP), as a true reflection of the progress made during the 6 year Flood Risk Management (FRM) cycle 2016 - 2022 to mitigate flood risk in the Scottish Borders. The report explained that approval was required to allow for the publication of the Section 38 Final Reports for each Local Flood Risk Management Plan in Scotland by December 2022. The inception of the Flood Risk Management (Scotland) Act 2009 (FRM Act) required the production of Local Flood Risk Management Plans covering each Local Plan District (LPD) in Scotland. Scottish Borders Council's area fell within 3 of the 14 Local Plan Districts in Scotland. These were Forth Estuary LPD, Tweed LPD and Solway LPD. There were two sets of complementary plans; Flood Risk Management Strategies which were approved by Scottish Ministers and subsequently published by the Scottish Environment Protection Agency (SEPA) on 22 December 2015 and Local Flood Risk Management Plans produced by Lead Authorities and published 22 June 2016. Scottish Borders Council was the Lead Authority for Tweed Local Plan District. The Flood Risk Management Strategies and Local Flood Risk Management Plans had been developed through collaborative partnerships between Local Authorities, SEPA and Scottish Water. The Flood Risk Management Strategies and Local Flood Risk Management Plans provided a framework for co-ordinating actions across catchments to deal with all sources of flooding. Those plans ensured long term planning around flooding and under Section 41(2) of the FRM Act, Scottish Ministers must take them into account when allocating funding. This approach helped target investment to areas where there was the greatest risk of flooding and where communities could receive the greatest benefit. The Local Flood Risk Management Plans took the objectives and actions identified in the Flood Risk Management Strategies and set out who would be responsible for delivering the action, how the action would be funded, a timetable for when the action would be delivered and how it would be co-ordinated within the first FRM Cycle 2016 - 2022. Section 38 of the Flood Risk Management (Scotland) Act 2009 required that the Lead Authority of each Local Plan District review and publish a Final Report on the progress made in implementing the measures to mitigate flood risk detailed in the relevant Local Flood Risk Management Plan during the first FRM Cycle 2016 - 2022. There was now a need to obtain the Council's approval of the Section 38 Final Reports for the Tweed, Solway and Forth Estuary Local Flood Risk Management Plan for national publication by December 2022. Mr Hedley, Chief Roads Officer, and Mr Morrison, Flood and Coastal Management Team Leader, were present at the meeting and answered Members' questions. Members noted the good work to date but that there were still areas where work needed to be done

#### **DECISION**

**AGREED to approve the:-**

- (a) S38 Final Report for the Tweed Local Flood Risk Management Plan;**
- (b) S38 Final Report for the Solway Local Flood Risk Management Plan; and**
- (c) S38 Final Report for the Forth Estuary Local Flood Risk Management Plan.**

#### **CHAIR**

Councillor Greenwell chaired the meeting for the following item to allow the Councillor McAteer to participate in the debate.

#### 5. **CARE VILLAGE DEVELOPMENT - HAWICK**

With reference to paragraph 7 of the Minute of 25 November 2021, there had been circulated copies of a report by the Chief Officer Health and Social Care Integration presenting the Outline Business Case (OBC) Initial Assessment to Council for Hawick Care Village provision, and to set out the next steps for a detailed options appraisal and development of the final Outline Business Case. The Draft Revenue & Capital Investment Plan (Revenue

2021/22 - 2025/26, Capital 2021/22-2030/31) agreed on 19 March 2020 included an allocation of £22.679m for “new residential care provision” for Tweedbank and Hawick. The Outline Business Case Initial Assessment was contained in Appendix 1 to the report. This Assessment included:-

- the strategic case for change,
- existing property considerations,
- desired scope of service requirements including initial findings of the consultation exercise undertaken with Hawick and Area stakeholders,
- current options that had been identified and that would be further developed and appraised as part of the development of the final OBC for Hawick Care Village provision

To aid the identification of further options, a market sounding exercise had been undertaken to determine potential interest from external sources to work in partnership in the development of a new care village in Hawick and the report detailed the current options identified. Following the OBC Initial Assessment, the options would be further developed, short listed and then appraised as part of the development of the final OBC for the Hawick Care Village. The final OBC would be submitted to the H&SC Integration Joint Board and to Council for consideration in early 2023. Members welcomed the report, and the importance of finding the right solution for Hawick which could be delivered without delay was emphasised. The increasing demand for such care was highlighted, as was affordability.

## **DECISION**

### **AGREED to:-**

- (a) note that the Outline Business Case (OBC) Initial Assessment, as contained in Appendix 1 to the report, was considered by the Integration Joint Board on 21 September and the current options that would be taken forward and appraised within the development of the final OBC for Hawick Care Village provision;**
- (b) the assessment criteria, weighting and scoring that would be used for the option appraisal, as set out in the OBC Initial Assessment; and**
- (c) approve the timeline and next steps for the development of a final OBC to be submitted to the Integration Joint Board and to Council in early 2023.**

## **6. SCOTTISH BORDERS LOCAL CHILD POVERTY REPORT 2021/22 AND ACTION PLAN**

There had been circulated copies of a report by the Director Resilient Communities presenting the Scottish Borders Local Child Poverty Report for 2021/22 and Action Plan for 2022/23, contained in Appendix 1 to the report, for endorsement before submission to Scottish Government. The report explained that The Child Poverty (Scotland) Act 2017 required Local Authorities and Health Boards to jointly prepare a Local Child Poverty Action Plan Report and an Annual Progress Report. The report provided Scottish Borders Council and Scottish Government with an update on progress made in the Scottish Borders against activities within the Action Plan for 2021/22 and set out planned actions in 2022/23. The direct drivers of poverty fell in to three main categories – income from employment, costs of living and income from social security, and the actions were focused around those themes. The report contained child poverty data for the Scottish Borders and the actions which were being taken to alleviate the situation by Scottish Borders Council, NHS Borders and other key partners. The Director answered Members’ questions and it was noted that many of the challenges being faced by families were outwith the control of the Council but that every effort would be made to help face these challenges. It was further noted that Challenge Poverty Week would be held from 3-9 October and information would be issued to Members.

## **DECISION**

**AGREED to endorse the Scottish Borders Local Child Poverty Report for 2021/22 and Action Plan for 2022/23 for submission to Scottish Government.**

**DECLARATION OF INTEREST**

Councillor Anderson declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

**7. REVIEW OF FOSTER CARER RATES, ALLOWANCES AND FEES**

There had been circulated copies of a report by the Director Social Work and Practice proposing an increase in the mileage rate for Foster Carers and a formal process of reviewing allowances and fees for carers. Since 2004, Scottish Borders Council's foster carers had been paid 35.1p per mile for use of their private vehicles when the journey was in addition to "day to day" expenses. This mileage rate had remained static and no review had taken place. It was now considered appropriate to review the mileage rate for foster carers and align this to the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p thereafter; this rate applied to SBC employees and volunteer drivers who used a private car for business mileage. The rate applied across all fuel types. At the time of the current mileage rate of 35.1p per mile being agreed, foster carers were travelling a total of c. 93,000 miles per annum. Whilst the number of miles had reduced since this time, and had been impacted as a result of restrictions during COVID-19, foster carers continued to utilise their own vehicles for activities additional to "day to day" business. It was therefore proposed that approval be given to remunerate foster carers at the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p per mile thereafter, when the journey was additional to "day to day" expenses, and that this change would take effect from 1 August 2022. It was further proposed that a formal process of reviewing allowances and fees for carers would be introduced and that this form part of the annual budget setting process, and be informed by officers. Members welcomed the report and the need to attract more foster carers.

**DECISION**

**AGREED:-**

- (a) to remunerate foster carers at the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p thereafter, when the journey was additional to "day to day" expenses, and that these rates commence with effect from 1 August 2022; and**
- (b) that a formal process of reviewing allowances and fees for carers be introduced, and that this form part of the annual budget setting process, and was informed by Officers.**

**MEMBER**

Councillor Anderson re-joined the meeting.

**8. QC INQUIRY UPDATE**

With reference to paragraph 9 of the Minute of 25 August 2022, the Director Education and Lifelong Learning reported that the Review Group continued to meet on a fortnightly basis and was focusing on particular themes. The HR actions had now been carried out and details of these would be reported to Council on 27 October 2022. The themed Social Work meeting had looked at the development of Child Protection procedures with Councils covering the Lothians. Unfortunately this work had not progressed as quickly as hoped and an updated timeline would also be provided in October.

**DECISION**

**NOTED the update.**

## **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. Councillor Rowley had joined the meeting via Microsoft Teams and left the meeting during the discussion.

### **9. LICENSING OF SHORT TERM LETS**

With reference to paragraph 13 of the Minute of 25 August 2022, there had been circulated copies of a report by the Chief Legal Officer providing Members with an opportunity to consider the terms of the draft short term lets licensing policy which the Council required to implement following the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 1982. At its meeting on 25 August 2022, Council had been provided with a briefing on the requirements of the new mandatory licensing system for short term lets which all local authorities were required to establish. Thereafter, at its meeting on 26 August 2022, the Council's Civic Government Licensing Committee agreed to recommend to Council that a 3 week statutory consultation be carried out on the draft policy as contained in Appendix 1 to the report. The report detailed the scope of the Licensing Scheme, the timescale for introduction and the fee structure. The report also explained that in addition to the introduction of the licensing scheme for short term lets, new planning regulations were brought into force in April 2021. The Town and Country Planning (Short Term Let Control Areas) (Scotland) Regulations 2021 provided a mechanism for the Council, as planning authority, to establish short term let "control areas" which aimed to help manage high numbers of short term lets. Under those regulations, the Council, as planning authority, could establish areas where any property operating as a short term let for more than 28 days a year had to apply for planning consent as it was considered a change of use. It was proposed as part of the draft policy not to designate any short term control areas meantime but this would be reviewed on a regular basis. The Chief Legal Officer advised that the Licensing Team would provide assistance to property owners to ensure the process was as easy as possible. In response to a request she confirmed that the statutory designations relating to property types would be included. A further report would be brought to Council following the statutory consultation period to agree the licensing policy and fee structure.

## **DECISION**

### **AGREED to:-**

- (a) approve the draft short term lets licensing policy as detailed in Appendix 1 to the report: and**
- (b) instruct the Chief Legal Officer to conduct the statutory consultation required on the content of the draft short term lets licensing policy and to report to Council on the outcome of that consultation.**

## **MEMBER**

Councillor Rowley re-joined the meeting online.

### **10. COMMON GOOD HERITABLE AND MOVEABLE ASSETS REGISTERS**

There had been circulated copies of a report by the Director Finance and Corporate Governance seeking approval to publish the final Common Good Register for the Council's twelve Common Good Funds. The report explained that under the Community Empowerment (Scotland) Act 2015 the Council was required to establish and maintain a register of property which was held by the authority as part of the Common Good. Before establishing a Common Good register, the Act required the Council to publish a list of property that it proposed to include in the register and to consult the public on this list. Each individual Common Good Fund Sub-Committee had approved its respective draft asset register in December 2021 and agreed to the commencement of the public consultation. The consultation ran from December 2021 to 31 March 2022. Following completion of the consultation, each Common Good Fund Sub-Committee had then considered the responses received to the consultation relative to that Fund, and approved its section of the final register. The report recommended to Council the combined register contained in Appendix 1

to the report and sought approval of that register for publication. It was noted that amendments could be made to the register in the future if further assets were identified. Members thanked Mrs MacLeod, Principal Solicitor, for her work on this matter. The Convener advised that Mrs MacLeod was leaving her post with the Council, thanked her for her contribution and wished her well for the future.

#### **DECISION**

##### **AGREED to:-**

- (a) approve the contents of the final list of heritable and moveable property assets held by the Council within the former Burghs of Coldstream, Duns, Eyemouth, Galashiels, Hawick, Innerleithen, Jedburgh, Kelso, Lauder, Melrose, Peebles and Selkirk (“the Common Good Register”) as set out in Appendix 1 to the report;**
- (b) to publish the Common Good Register; and**
- (c) note that, following publication, the Common Good Register would be reviewed every five years, or at such time as relevant new information became available.**

#### **11. DRAFT CALENDAR OF MEETINGS OCTOBER 2022 – JULY 2023**

With reference to paragraph 14 of the Minute of 25 August 2022, there had been circulated copies of a draft calendar of meetings covering the period 1 October 2022 to 31 July 2023 which had been prepared to take account of the amendments to the Scheme of Administration. It was noted that changes had been made to the days on which some Committees met and it was agreed that those committees affected by such changes be given delegated powers to consider and agree any amendment to meeting dates which might be required.

#### **DECISION**

**AGREED to approve the draft Calendar of Meetings for the period 1 October 2022 to 31 July 2023 subject to delegation of powers to individual Committees to amend meeting dates as required.**

#### **12. ELECTED MEMBERS CHAMPIONS ROLE**

- 12.1 With reference to paragraph 6 of the Minute of 26 May 2022, there had been circulated copies of a report by the Acting Chief Executive seeking approval for the Elected Member Champions’ roles and remits and also the appointment of two new Champions – for Creative Industries and Mental Health. At its meeting on 26 May 2022, Scottish Borders Council appointed Elected Members to 11 Champions roles. To provide clarity for the Councillors undertaking a Champion role, officers were asked to provide further details on their remit. Details of roles and remits for each Champion were provided in the Appendix to the report. It was intended that the Champions would work to ensure that the voices of those they were supporting would be heard; that they would raise awareness of the challenges facing their particular sector; that they would help shape priorities, launch new initiatives, participate in focus groups, attend local and national meetings as appropriate, and undertake any other relevant activities. The role of the Champion was apolitical with a focus on representing those in their particular sector. It was also proposed that the Champions meet as a minimum on a six monthly basis to discuss their respective areas of interest and update each other on their activities. To avoid confusion, it was further proposed that the title of some of the Champions roles appointed on 26 May would now be changed to better reflect the roles. The report also asked Council to appoint two new Champions to promote the Creative Industries and Mental Health.
- 12.2 Councillor Smart, seconded by Councillor Brown, nominated Councillor Paton Day as the new Champion to promote the Creative Industries and this was unanimously approved.
- 12.3 Councillor Jardine, seconded by Councillor Pirone, nominated Councillor Linehan as the Champion for Mental Health and this was unanimously approved.

**DECISION  
AGREED:-**

- (a) to approve the change in titles of the following Champions –
  - (i) Opportunities for Young People Champion changed to Employment Opportunities Champion
  - (ii) Education & Young People Champion changed to Young People’s Champion;
  - (iii) Deaf Community Champion changed to Deaf People’s Champion;
  - (iv) Dementia Champion changed to People Living with Dementia Champion; and
  - (v) Wellbeing & Safety Champion changed to Safety Champion;
- (b) to approve the Elected Member Champions’ roles and remits as detailed in the Appendix to the report;
- (c) to appoint Councillor PatonDay as the new Creative Industries Champion and Councillor Linehan as the new Champion for Mental Health; and
- (d) that the Elected Members Champions meet as a minimum on a six monthly basis to discuss their respective areas of interest and update each other on their activities.

**DECLARATION OF INTEREST**

Councillors Cox, Marshall, McAteer and Ramage declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the meeting during the discussion. Councillor Ramage remained in the meeting to present the application but left prior to the discussion.

**CHAIRMAN**

In the absence of Councillor McAteer, Councillor Greenwell chaired the meeting for the following item of business.

**13. HAWICK COMMON GOOD FUND – REQUEST FOR FUNDING**

With reference to paragraph 3 of the Minute of the Hawick Common Good Fund Sub-Committee held on 25 August 2022, there had been circulated copies of an application for financial assistance from Hawick Honorary Provost’s Council (HHPC) for £2,500 to support the carrying out of civic duties in Hawick included the funding of outside catering and presents for those being recognised for what they have achieved or contributed to their community. Members were advised that as the majority of Members of the Hawick Common Good Fund Sub-Committee were also Members of the HHPC it was necessary for the decision to be taken by Council. Councillors Smart and Moffat suggested amendments in terms of how this funding should be applied for in future and a suggested continuation for further information. However, as no amendments relating to this matter had been lodged in advance of the meeting, the Vice Convener refused to accept them. On that basis it was agreed that the funding application be approved.

**DECISION**

**AGREED that a grant of £2,500 be given from the Hawick Common Good Fund to the Honorary Provost’s Council.**

**MEMBERS**

Councillors Cox, Marshall, McAteer, Ramage re-joined the meeting and Cllr McAteer resumed the chair.

**14. APPOINTMENTS TO THE EDUCATION SUB-COMMITTEE**

14.1 With reference to paragraph 14 of the Minute of 25 August 2022, it was noted that appointments were required in respect of the Education Sub-Committee. Councillor L. Douglas moved that in terms of Standing Order No. 51 that the decision made in August be amended with regard to the membership of the Sub-Committee. This was unanimously supported. Councillor L. Douglas, seconded by Councillor S. Hamilton, moved the following Motion:-

- “(a) given the changes to the titles for Elected Members Champions and to increase the number of members on the Education Sub-Committee that the membership should comprise:
- (i) The Executive Member for Education and Lifelong Learning (Chair)
  - (ii) The Executive Member for Developing Our Children & Young People
  - (iii) The Elected Member Champion for Young People
  - (iv) The Elected Member Champion for Learning & Physical Disabilities
  - (v) Three other members of the Administration
  - (vi) Two other members from out-with the Administration
- (b) To appoint three other members of the Administration and two other members from out-with the Administration to the Education Sub-Committee.”

The Motion was unanimously approved.

14.2 Councillor Jardine, seconded by Councillor L. Douglas, moved that Councillors Greenwell, Richards and Scott be appointed in respect of (v) above and this was unanimously approved.

14.3 Councillor Thornton-Nicol, seconded by Councillor Moffat, moved that Councillors Robson and Sinclair be appointed in respect of (vi) above and this was unanimously approved.

**DECISION  
AGREED:-**

- (a) **Given the changes to the titles for Elected Members Champions and to increase the number of members on the Education Sub-Committee that the membership would comprise:**
- (i) The Executive Member for Education and Lifelong Learning (Chair)**
  - (ii) The Executive Member for Developing Our Children & Young People**
  - (iii) The Elected Member Champion for Young People**
  - (iv) The Elected Member Champion for Learning & Physical Disabilities**
  - (v) Three other members of the Administration**
  - (vi) Two other members from out-with the Administration**
- (b) **To appoint Councillors Greenwell, Richards and Scott as the three other members of the Administration and Councillors Robson and Sinclair as the two other members from out-with the Administration to the Education Sub-Committee.**

**15. OPEN QUESTIONS**

The questions submitted by Councillors Ramage and Anderson were answered.

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

**MEMBER**  
Councillor Parker left the meeting during the above item.



16. **URGENT BUSINESS**

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

17. **COURT JUDGEMENT – DAY SERVICES**

There had been circulated copies of a report by the Chief Legal Officer (Monitoring Officer) advising Members of the content and effect of a decision of the Court of Session which was issued on 20 September 2022. The report explained that in June 2019, the Executive Committee had decided that it would decommission the then existing Day Centres. One of those centres was the Teviot Day Centre in Hawick. In late 2021 a Petition was lodged in the Court of Session seeking a Declarator that the decision was unlawful. The case was heard by Lady Carmichael on 28 April 2022. On 20 September, Lady Carmichael issued her judgment. She found that the Council's decision to close the Teviot Day Centre was unlawful and she "reduced" that decision. That meant, in effect, that the Council had not decided to close that Centre. The Court found that SBC had failed to properly undertake an Equality Impact Assessment and, also, that it had failed to properly consult with affected parties. The Council now required to reach a decision on how best to provide services for those adults in need of day care in the Hawick area. In doing so, it must ensure it complied fully with the Court Judgment. A further report would be brought to Council in October providing further detail on the next steps. The Chief Legal Officer advised that she was meeting with Counsel the following day to seek advice on the way forward. The Leader, Councillor Jardine, apologised unreservedly to all service users and acknowledged that the Council had made the wrong decision and needed to learn for it. It was a timely reminder that every decision the Council took had an impact on someone. The Chief Officer Health and Social Care Integration advised that discussion had already taken place with carers and it was essential that the next steps were co-produced and to agree with carers what "good" looked like. This would be a fresh process as the situation had now changed from that in 2019.

**DECISION**

**AGREED to:-**

- (a) note the update on the Court Judgement with regard to Teviot Day Centre; and
- (b) receive a further report at the next meeting of Council in October 2022 on the next steps in reviewing Day Service provision in Teviot and Liddesdale.

18. **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**

19. **Minute**

The private section of the Council Minute of 25 August 2022 was approved.

20. **Committee Minutes**

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

*The meeting concluded at 12:55 p.m.*

**SCOTTISH BORDERS COUNCIL**  
**29 SEPTEMBER 2022**  
**APPENDIX I**

**OPEN QUESTIONS**

**Questions from Councillor Ramage**

**1. To Executive Member for Developing Our Children and Young People**

Finance for foster carers. SBC foster carer allowance are made up of the following.

1. Additional food costs
2. Utilities bills, including phone.
3. Insurance
4. General wear and tear
5. Additional travel including mileage reimbursement
6. Child care and activities.

What additional funding is in place to provide adequate funding for the children SBC have the duty of care for?

Points 1 & 2(above) in daily life have increased by a minimum of 8%. What % increase has been made to ensure our LAC (Looked after children) are adequately cared for?

**Response from Councillor C Hamilton**

There has been no % increase in funding provided to carers in relation to food costs or utilities bills as a result of inflationary increases, however if a child requires additional funding to meet their need this is provided through discussion with the child's social worker on a case by case basis.

For the financial year 2022-23 an increase of 3% was provided to foster carers' fees and allowances, and this was agreed by Council during the budget setting process. Every foster carer receives a weekly fee plus weekly allowance.

The current fees are:

- Level 1\* - £173.16 per week per child
- Level 2 - £230.93 per week per child

\*Level 1 is paid to all new carers and for minimum of 3 years until all mandatory training is completed. The majority of Scottish Borders foster carers are Level 2.

The current allowances are:

- Age 0-10 years - £136.52 per week per child
- Age 11 plus - £204.74 per week per child

An allowance of £20.60 per month for telephone and broadband is also paid

Additional payments include:

- 1 week allowance payment for each child's birthday
- 1 week allowance payment for each child at Christmas
- 2 weeks allowance additional payment for each child at Summer
- Carers are provided full fee and allowance for each child if they are taking a short break - up to 30 days per year
- Additional payment is provided for equipment needed for the child e.g. car seats, beds, prams, etc.
- If a carer does not have a child in placement, a retainer fee of £114.29 per week is paid

A paper is due to be presented at Council on 29 September 2022 recommending an uplift to the foster carer mileage rate, to remunerate foster carers at the Approved Mileage Allowance Payment (AMAP) rate of 45p per mile for the first 10,000 miles and 25p thereafter.

The report also recommends a more systematic approach to reviewing allowances and fees paid to foster and kinship carers.

The National Review of Care Allowances reported in September 2018, and made a number of recommendations including that the Scottish Government and CoSLA consider a Scottish Recommended Allowance for children in kinship and foster care. Whilst work is underway regarding the introduction of the Scottish Recommended Allowance it is likely that this may take time to be agreed and implemented.

## 2. To the Executive Member for Education and Lifelong Learning

Can you tell me how the Nurture Policy was formulated and from what Authority it was based on?

### Response from Councillor L. Douglas

The purpose of the Nurturing Approaches Guidelines ties in with both the Inclusion Framework and Inclusion Policy that were brought to and shared with the Executive Committee in January 2020.

The documents were formulated in response to feedback from school staff from the Inclusion Audit in November 2018. Nurturing approaches is an evidenced-based approach and is informed by data and research – it has been promoted as a key approach to supporting behaviour, wellbeing, attainment and achievement in Scottish Schools in a number of policy documents including “Included Engaged and Involved, Part 2” and “Better Relationships, Better Learning and Better Behaviour”.

Education Scotland fully endorse and promote nurturing approaches and have provided a toolkit and framework for all schools. A number of other Local Authorities have evidenced success in using nurturing approaches to reduce the poverty related attainment gap and reducing school exclusions – but should be noted that embedding these approaches takes years. We introduced our first training in November 2020. We visited Glasgow City Council and North Ayrshire to speak to their Educational Psychology Service who led on their journey.

### Supplementary

Councillor Ramage asked what was wrong with the previous pastoral support model which met the needs of all children rather than a policy which only served troubled children. Councillor Douglas advised that the policy would take time to embed and training to upskill staff was ongoing. Bullying was a difficult topic and needed to be dealt with on a case by case basis. The aim was to avoid exclusion from school.

## 3. To the Executive Member for Social Work and Community Enhancement

For the response to the supplementary question of 30/1/20 the Council was advised that a risk of successful legal challenge, similar to McHattie vs South Ayrshire Council, was “unlikely” and on what actual, evidential assessment was this advice proffered?

What actions will the Council now undertake, with urgency, and in accordance with Lady Carmichael’s instructions, to redress the unlawful actions the Council has taken, not just with regard to Teviot Day Service but in respect of all Day Service closures across the Borders?

### Response from Councillor Parker

When the McHattie judgment was issued, its terms were carefully considered. It was noted that the Court, in that case, had intimated that there had been no EIA prepared at all before the decision to close the relevant centre had been taken.

The relevant Officers advised, at that time, that an EIA had been prepared regarding Day Centres in the Scottish Borders and that it had been kept under regular review. The view

was expressed that it was considered to be a substantial document and that it would stand up to scrutiny.

Further information on the next steps is included in item 20a: 'Court judgement - day services paper'.

#### Supplementary

Councillor Ramage asked what action the Council would take and Councillor Parker advised this would be agreed when the report was considered later in the meeting.

### **Questions from Councillor Anderson**

#### To the Executive Member for Roads Development and Maintenance

1. Does the relevant department (was neighbourhood services) have a time frame for giving staff the correct vehicle or adaption to a vehicle to empty bins and go about their sanitation duties in East Berwickshire? The staff are forced on busy days to do a one hour round trip to Duns to tip the transit van into the appropriate site. Having a transit with a cage on the back would enable the men to carry a heavier load and would save 31 working man hours in August alone. It would also save 806 miles or £362.70 in fuel costs in August. Can Council have a time frame for the desirable outcome of appropriate actions to be taken; specifically the correct vehicle or adaptation supplied to ground staff.

#### Response from Councillor Greenwell

The vehicle currently in use to service the street cleaning function in and around the Eyemouth area is a transit van without caged sides. This is a hired vehicle, it is not possible to hire vehicles with these adaptations currently, and as it is hired then we cannot modify it.

The service is currently trying to develop a more efficient approach to servicing of on street waste which may see modifications to existing routes and responsibilities within the I&E department. The conclusions of this exercise are not yet known. As such, it is not possible at this time to define a definitive timescale for the acquisition of a new vehicle. This vehicle along with a large number of other similar vehicles at or around the 3.5tonne Capacity are currently being procured as part of an ongoing fleet replacement programme which will see vehicles start to arrive over the summer of 2023 from June, given the lead-in times given for ordering and delivery. In the meantime, the service will continue to use spot-hire of vehicles to ensure cleansing operations can be conducted.

Officers will also continue to consider ways in which to make this operation more efficient, working with the front line staff to do so.

2. What is the total rental costs for Cooks van hire vehicles on an annual basis (not within Covid restricted years) to SBC?

#### Response from Councillor Greenwell

Year	Spend
2019/20	98,422
2020/21	185,429
2021/22	275,873
2022/23 (YTD)	136,812

Our fleet consists of circa 450 vehicles and 1000 items of plant. We use vehicle hires to support our fleet maintenance and replacement programme, and as one alternative to incurring the fixed cost of a permanent in-house vehicle as opposed to a temporary flexible

hire. In hiring through Cooks and other local suppliers we also continue to support the Scottish Borders Economy.

We have an accelerated fleet replacement programme underway in 22-23 and as part of this programme we intend to significantly reduce our use of third party hires in future.

#### To the Executive Member for Community Engagement

3. With the coming of the new Scheme of Establishment for Community Councils, there will be a specific requirement for Community Councils to have web site information; specifically the need to publish the minute of meetings, agenda and annual accounts. Community Councils play a valuable role in our communities and in particular will be vital in delivering the Place Plans. However Community Councils do not always have the expertise needed to run web sites. As these are specific requirements being asked by SBC before and after the review of the Scheme of Establishment, can SBC provide a simple page for each Community Council to publish their minute and other needed documentation to ensure they have the tools to meet the requirements for Community Councils?

#### Response from Councillor Cochrane

The review of the Scheme of Establishment for Community Councils is currently underway, with any proposals for change due be submitted to Council and then go out for public consultation. There is no current requirement in the Scheme for Community Councils to have website information available and while public notice needs to be given of agendas, reports and minutes of meetings, but publication in an online format is not compulsory.

Many Community Councils have their own websites, or have a page within a local community website or social media site. It is not possible for SBC to provide a page for each Community Council to access on its website as external users cannot publish information on its website. Neither is it possible for Scottish Borders Council to publish documents on behalf of Community Councils as, with 69 Community Councils holding a minimum of 3 meetings per annum each, it would be too resource intensive.

It is suggested that this could be a service that could be provided through the Scottish Borders Community Council Network, who may be willing to set up a specific website, with either links to where Community Councils publish their documents, or a facility which would allow Community Councils to publish documents directly to such a site.

#### Supplementary

Councillor Anderson advised that SBCCN was already tasked with a number of duties and asked if a support package could be included as part of the Review. Councillor Cochrane undertook to discuss this with officers.

4. Berwickshire Area Partnership members are keen to delegate full decision making powers on the Community Grant Fund to its Assessment Panel for a trial period. Can the Executive Member advise on how and when this can be achieved?

#### Response from Councillor Cochrane

The remit of the Berwickshire Area Partnership includes decision making on the Neighbourhood Support Fund. The Assessment Panel is not a legally constituted body and this creates significant difficulties in achieving the proper governance which would be necessary. At the heart of this issue is a spend of public money and therefore it is vital that appropriate safeguards are in place around that spend.

Officers are working to see what can be done to delegate decision making authority directly to a group who are not mainly SBC Elected Members but that work is not yet complete as it is complex and we need to ensure that the Council is "following the public pound" and that no personal liability rests with individual members of such a group. It is hoped to have a report on this by the end of the year.

Supplementary

Councillor Anderson asked if officers could meet to discuss delegation and report back to Area Partnership Chairmen. Councillor Cochrane advised that this would be undertaken as part of the Review.

To the Executive Member for Estate Management and Planning

5. What was the spend on the designs for the new Eyemouth primary school from 2015 to 2019?

Response from Councillor Mountford

Summary of fees from September 2019 to February 2020 equating to a total sum of £504,347.65. These fees form part of the overall cost of construction and are inclusive of architectural and engineering design services, project and cost management services and project related surveys.

Fees are in line with those expected on a construction project of this size and complexity and officers regularly monitor fees to ensure that they are delivering best value for the Council.

Conceptual proposals for the project will be presented to elected members later this financial year.

6. Can the Executive Member advise when a report on the future operation of public toilets will be considered by Scottish Borders Council so that we have a final policy in place following the closures due to Covid?

Response from Councillor Mountford

The policy and financial implications with the future operation of public toilet provision across the Borders will be considered, along with other resource priorities, as part of the budget process in 2023/24 and as such, Council can expect to receive a report on this issue by February 2023 at the latest.