SCOTTISH BORDERS COUNCIL

MINUTE of Blended MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells and Microsoft Teams on 27 October 2022 at 10.00 a.m.

Present:- Councillors W. McAteer (Convener), J. Anderson, D. Begg, P. Brown, C. Cochrane, J. Cox, L. Douglas, M. Douglas, J. Greenwell, C. Hamilton, S. Hamilton, E. Jardine, J. Linehan, N. MacKinnon, S. Marshall, D. Moffat, S. Mountford, A. Orr, D. Parker, J. PatonDay, J. Pirone, C. Ramage, N. Richards, E. Robson, M. Rowley, S. Scott, F. Sinclair, E. Small, H. Steel, R. Tatler, V. Thomson, E. Thornton-Nicol, T. Weatherston
Apologies:- Councillor A. Smart
In Attendance:- Acting Chief Executive, Director Education and Lifelong Learning, Director Infrastructure and Environment, Director Resilient Communities, Director Social Work and Practice, Director Strategic Commissioning and Partnerships, Chief

Infrastructure and Environment, Director Resilient Communities, Director Social Work and Practice, Director Strategic Commissioning and Partnerships, Chief Officer Health & Social Care integration, Acting Chief Financial Officer, Chief Legal Officer, Clerk to the Council.

1. CONVENER'S REMARKS

The Convener congratulated those communities which had taken part in the Greener Gateways competition and the fantastic efforts made by volunteers in towns and villages across the Borders. He also congratulated the Eyemouth Enhancement Group who had won a Keep Scotland Beautiful Award, RHS Scotland Award for Overcoming Adversity.

DECISION

AGREED to pass congratulations to those concerned.

2. MINUTE

The Minute of the Meeting held on 29 September 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:-

Local Review Body Tweeddale Area Partnership Innerleithen Common Good Fund Planning & Building Standards Melrose Common Good Fund Galashiels Common Good Fund Jedburgh Common Good Fund Executive Kelso Common Good Fund Chambers Institution Trust Pension Fund Pension Board Innerleithen Common Good Fund Local Review Body Planning & Building Standards Executive

DECISION APPROVED the Minutes listed above.

4. REVIEW GROUP UPDATE IN CONNECTION WITH INDEPENDENT INQUIRY ACTION PLAN

With reference to paragraph 8 of the Minute of 29 September 2022, there had been circulated copies of a report by the Acting Chief Executive providing the second formal update from the Inquiry Review Group which was established to progress the work identified following the independent investigation into the Council's handling of concerns raised about a former Scottish Borders Council employee. The report explained that work had continued in respect of all actions listed in the Action Plan. Good progress had been made on a second tranche of actions from the Action Plan, as contained in Appendix 1 to the report, which were now complete as highlighted in the report. A further update report would be brought to Council in November (relating to outcome actions 4 and 10) seeking sign off of these remaining outstanding actions and any other issues. Members welcomed the progress made to date.

DECISION

AGREED to:-

- (a) note the progress of the Review Group as detailed in the report;
- (b) approve the following actions from the Action Plan as being complete:
 - Action 1 (b): Create a clear reporting mechanism which demonstrates progress against all actions and changes agreed by the Review Group, and achieve sign off by Council;
 - Action 3(b): Consider the Terms of Reference for CSOG in light of the Inquiry report and its recommendations;
 - Action 6(e) and (f): Following on from actions 6 (a-d) have the Councils Disciplinary Procedure moderated by the Improvement Service. Create an implementation plan for the new Procedures, to include, training, briefing sessions and communication strategy;
 - Action 9(a) and (b): Update the Disciplinary Procedures and Guidelines to expressly articulate that conduct involving children can be determined as misconduct or gross misconduct. Procedures will be moderated against best practice. Update and disseminate information from (a) into the Council's Managing Disciplinary Cases training course;
 - Actions 12(a) and (b): Creation of a protocol that establishes all HR disciplinary related information must be held in the HR Case Management System. Implement and train managers regarding this. Create a process for ensuring that the rationale for Disciplinary investigation decisions is appropriately recorded in the HR Case Management system. Implement and train managers regarding this;
 - Action 12(e): Ensure there is a clear process where any referrals concerning a staff member to the CPU is by default copied to the HR Case Management System (failsafe measure).

5. CHIEF SOCIAL WORKER ANNUAL REPORT

There had been circulated copies of a report by the Director Social Work and Practice containing the Chief Social Work Officer (CSWO) annual report on the work undertaken on behalf of the Council by the CSWO in this statutory role for 2021/22. The report provided an account of the decisions taken by the CSWO in the statutory areas of Fostering and Adoption, Child Protection, Secure Orders, Adult Protection, Adults with Incapacity, Mental Health and Justice. The report also gave an overview of regulation and inspection, workforce issues and social policy themes over the year April 2021 to March 2022, and highlighted some of the key challenges for that year. As had been the case for the last few years, the format of the report was a shortened version from that which was produced prior to the pandemic. This ongoing arrangement had been kept in place to recognise the workload implications caused by the Covid-19 pandemic and pressures that had continued across the Social Work & Social Care landscape as the service emerged from this. The Director highlighted the main points in the report and commented on the increasing demand for services as well as the Social Work Pathfinder Project. Members thanked Mr Easingwood and his staff for their work in the most challenging of circumstances and, in response to a request from Councillor Thornton-Nicol, gave staff a round of applause. Mr Easingwood answered Members' questions and advised that there was a project looking at the transition between child and adult services. He further advised that he was committed to building self-assessment and self-evaluation into services as it was important to identify where the strengths and weaknesses lay. The need for short-breaks for unpaid carers was a priority. However, although it was not possible to meet all needs, it was important to make best use of the resources available.

DECISION

AGREED to approve the Report of the Chief Social Work Officer as contained in the Appendix to the report.

6. DAY SERVICES PROVISION IN TEVIOT AN LIDDESDALE – NEXT STEPS

With reference to paragraph 17 of the Minute of 29 September 2022, there had been circulated copies of a report by the Chief Officer Health and Social Care Integration advising Members of the next steps relating to reviewing Day Service provision in Teviot and Liddesdale. The report explained that the intention was to design a seamless service offering across Health and Social Care services, which would provide enabling, person-centred and relationship centred support. This would include the provision of information and support to both carers and those being cared for who used services. Work on the future design of day services would be treated as a fresh process, with a new Integrated Impact Assessment and further consultation within the Teviot and Liddesdale locality initially. This would help inform similar future work in other localities and would include work to explore opportunities to integrate with services and to develop new approaches. No decisions as to the future model of day service delivery had as yet been made, and a future consultation on the model of day service provision would now be undertaken, referencing the work of the unpaid carers group. Work to re-design services would adopt the principles of co-production, fully involving and engaging service users, carers, and other stakeholders in a thorough process of consultation. The process would ensure that equalities issues were fully identified and addressed, along with the views of consultees in developing the future service delivery model. A paper would now be produced making recommendations for review by the Integration Joint Board Strategic Planning Group in November, prior to discussion at the Integration Joint Board in December. This would then be brought back to Council with a recommended way forward. Members welcomed the report and emphasised the need for a robust review and the need for the new services to be provided as soon as possible. In response to a question on the legal requirements of the judgement, the Chief Legal officer advised that external legal advice had been taken and she was content that the Council were taking the necessary steps to meet the requirements imposed by Lady Carmichael. The decision of Court was specific to Teviot & Liddesdale and once that had been looked at, further consideration would be given to the rest of Day Services across the Borders. The Acting Chief Executive assured Members that the decision to close the Day Centre had not been taken on financial grounds, as often it was more expensive to provide services out-with a Day Centre, but was instead

trying to meet the needs of users within communities. The Council recognised that the decision to close had been wrong and the judgement had been accepted. Officers were acting as quickly as possible to bring back further details to Members as early as was practicable.

DECISION AGREED:-

- (a) to note the update on the next steps in reviewing Day Service provision in Teviot and Liddesdale;
- (b) that a new process of consultation on the design and delivery of day services, and new equalities impact assessment would now be undertaken; and
- (c) to request that a report recommending the way forward for day services be brought back to Council by the Chief Officer following appropriate consideration with the Integration Joint Board.

7. INSPIRE FOR LEARNING PRESENTATION

The Acting Chief Executive gave Members a presentation on the Inspire for Learning journey, covering key aspects of the Inspire for Learning programme. This work put Scottish Borders at the cutting edge of digital education and Apple was using Scottish Borders as a case study worldwide, putting the Borders at the forefront of digital education across the world. He also commented on the new centre which had been opened in Tweedbank. Members were shown a video of the work of Viewfinders in Hawick which opened the world of film making to young people. Members paid tribute to the staff involved in this work and expressed the hope that this would attract IT jobs to the Borders. Members who had been part of the previous Council commented on the criticism received when the original decision was taken but it had proved invaluable during the pandemic and presented an opportunity to engage all pupils in school life. The E-sports project was highlighted and that Scottish Borders would be the first area to offer this option in all secondary schools.

DECISION NOTED the presentation.

8. LICENSING OF SEXUAL ENTERTAINMENT VENUES

With reference to paragraph 10 of the Minute of 31 March 2002, there had been circulated copies of a report by the Chief Legal Officer advising Members of the responses received to the Stage 2 consultation on the content of the Council's draft Policy Statement on the Licensing of Sexual Entertainment Venues ("SEVs") in the Scottish Borders area. The report explained that at its meeting on 31 March 2022, Council approved the draft Policy Statement and instructed the Director Finance and Regulatory Services to carry out a Stage 2 public consultation. Following the conclusion of the stage 2 consultation on 18 September 2022, 17 responses had been received and these responses were detailed in Appendix 1 to the report. The responses received to the stage 2 consultation were overwhelmingly in favour of the Council's draft Policy Statement on the Licensing of SEVs. A copy of the Council's draft Policy Statement on the Licensing of SEVs was contained in Appendix 2 to the report. Members supported the policy and agreed that the number should be zero. However, they did comment on the disappointing response to the consultation and the need for better public engagement.

DECISION

AGREED to adopt the draft Policy Statement on the Licensing of SEV's with immediate effect.

9. SCHEME OF ADMINISTRATION

With reference to paragraph 14 of the Minute of 25 August 2022, there had been circulated copies of a report by the Acting Chief Executive seeking approval for changes to the membership of the Executive Committee. The report explained that the membership of the Executive Committee was specifically considered at two meetings of the Members' Cross Party Working Group: Scheme of Administration. A number of different views were presented but there was agreement that the membership of the Committee should be increased to reflect the whole concept of Members from across the political spectrum working together in a collegiate way. The current two members of the Executive Committee from outwith the Administration had allowed an expression of ideas, challenges and a different political perspective being brought to decision making. It was therefore proposed to increase this and that a further two members from out-with the Administration be added to the membership of the Executive Committee. The membership of the Committee would be reviewed after one year, or should issues arise impacting on the working of the Committee, at an earlier time. Members supported the proposal and Councillor Thornton-Nicol, seconded by Councillor Jardine, moved that Councillors Marshall Douglas and Sinclair be appointed. This was unanimously approved.

DECISION AGREED:-

- (a) to extend the membership of the Executive Committee to a total of seventeen members, to include a further two members from outwith the Administration, and amend the Interim Scheme of Administration accordingly;
- (b) to appoint Councillors M. Douglas and Sinclair from out-with the Administration to the Executive Committee; and
- (c) that the membership of the Executive Committee be reviewed after a year, or should issues arise impacting on the working of the Committee, at an earlier time.

10. QUESTIONS FROM THE PUBLIC AT COUNCIL MEETINGS

With reference to paragraph 14 of the Minute of 25 August 2022, there had been circulated copies of a report by the Acting Chief Executive seeking approval for a process to allow members of the public to submit questions to be answered at meetings of Scottish Borders Council. It was agreed at the August Council meeting that a further report be considered at the next Council meeting with details of how the submission of questions from members of the public to full Council meetings could work. At its meeting held on 23 September 2022, the Members' Cross Party Working Group: Scheme of Administration, considered a draft procedure, template and contact form. Details of the draft procedure were contained in Appendix 1 to the report and the question template and contact details form were contained in Appendices 2 and 3 respectively. It was hoped that by including an item on the Council agenda for questions from members of the public, this would be another avenue for public engagement with the Council. It would also be complementary to the Open Questions item for Elected Members which was included in each Council agenda. The Clerk to the Council presented the report and asked that she be given delegated powers to add the information agreed by the Working Group into the process and this was agreed. Members welcomed this additional method of engaging the community in the work of the Council. Members proposed that an interim report be provided after 6 months and this was agreed.

DECISION AGREED:-

(a) to approve the procedure for Questions from the Public at Council meetings, as detailed in Appendix 1 to the report subject to the delegation of powers to the Clerk to the Council to add the further matters agreed by the Working Group;

- (b) to approve the template for the submission of questions from the public, as detailed in Appendix 2 to the report;
- (c) to approve the contact details form to accompany any question submitted by a member of the public, as detailed in Appendix 3 to the report;
- (d) to delegate authority to the Clerk to the Council to make the necessary changes to the Scheme of Administration; and
- (e) that the submission of questions by members of the public for Council was reviewed after one year, to ascertain the benefits and consider whether such a process should continue with an interim report on questions from the public being presented to Council after 6 months.

11. COMMITTEE APPOINTMENTS

It was noted that a Vice-Chair required to be appointed for the Planning and Building Standards Committee and Local Review Body. Councillor Mountford, seconded by Councillor Thomson, moved that Councillor Marshall Douglas be appointed and this was unanimously agreed.

DECISION

AGREED that Councillor Marshall Douglas be appointed as Vice Chair of the Planning and Building Standards Committee and the Local Review Body.

12. APPOINTMENTS TO OTHER BODIES

- 12.1 It was noted that Councillor Parker no longer wished to be a Member of the Wellbeing and Safety Committee. Councillor Jardine, seconded by Councillor Small, moved that Councillor Greenwell be appointed and this was unanimously agreed.
- 12.2 It was noted that Councillor Cox was to remain as a Member of the SEStran Partnership Board so no appointment was needed.

DECISION

AGREED that Councillor Greenwell be appointed to the Wellbeing and Safety Committee.

13. OPEN QUESTIONS

The questions submitted by Councillors Anderson, Begg, Robson and Steel were answered.

DECISION

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

14. 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

15. Committee Minutes

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

16. Inspire Academy – Building on Success

Members approved a report by the Director Education and Lifelong Learning on the future of the Inspire Academy.

The meeting concluded at 1.00 p.m.

SCOTTISH BORDERS COUNCIL 27 OCTOBER 2022 APPENDIX I

OPEN QUESTIONS

Questions from Councillor Anderson

1. To Executive Member for Roads Development & Maintenance

As the Council pushes for a greener way of traveling, and residents are encouraged to buy electric vehicles, what is SBC doing to ensure that the infrastructure that will feed the electric car revolution is being planned for and put into place?

As SBC plans for greener fleet vehicles, we ourselves have a shortage of charging points that are of high enough voltage. Has the Scottish Government given guidance on how to renew infrastructure with a plan to fund such upgrades?

As a rural area, would investment in Hydrogen technology or hybrid technology be a better way forward?

Should SBC be seen to encourage electric vehicles when the infrastructure is not in place with large enough coverage, which leaves residents disappointed and angry?

Response from Councillor Greenwell

The public charging infrastructure delivered by Scottish Borders Council over the last 10 years has been achieved with funding from Scottish Government and Transport Scotland.

This approach was adopted to support the growth in EV vehicle ownership and Scotland's journey to achieving Net-Zero by 2045.

The Council was successful in a bid to the UK Community Renewal Fund, to deliver an EV Charging Feasibility Study for the Scottish Borders. The key aim of the study is to deliver private investment equitably across the Scottish Borders.

A report is being prepared for Council 24 November 2022 seeking endorsement of the feasibility study recommendations and to seek further funding from Transport Scotland and Scottish Futures Trust.

Currently we are operating 72 charging points at SBC locations funded by Switched on Fleet. In addition, a further separately funded "HQ Smartgrid" project is nearing completion which will see an additional 70 charging points ranging from 7kw to 22kw installed at the Newtown depot and at HQ Bowden road. As part of this project, some of the points will be publically available.

We currently have 60 electric vehicles with a further 24 in procurement for 22/23. For 2022/23 we applied for vehicle funding through SoF but have so far been rejected, they have recommended that we seek funding for further installations of charging infrastructure which is now in progress.

Part of the EV Charging Infrastructure Feasibility study recognises that there is too much uncertainty in terms of technology development, consumer behaviour and other fuel alternatives to commit to EV Charging infrastructure for a predicted demand in 2030. So a recommendation to Council will be that an initial phase of development of new EV charging infrastructure will be delivered for 2026 predictions and in 2025/26 the assumptions in this current modelling will be re-assessed to define the next phase of development for 2030 demand. This re-assessment will take account of technology developments, other alternative fuels including hydrogen, which also requires significant investment in infrastructure, consumer behaviours, journey habits etc. to define the investment needed for a second phase of investment for 2030 demand.

Scotland has committed to being Net-Zero by 2045 with strong targets of being 70% to net-zero by 2030. Scottish Borders Council has maximised the investment of external funding to deliver the current network of chargers and maintain them within existing budgets. The new approach to deliver private sector investment to the region is an essential step to help the Scottish Borders contribute to Scotland's Net-zero targets and will support a growth in EV vehicle uptake in the region.

2. To Executive Member for Community and Business Development

What is being done to support rural residents who live next to newly installed fibre optic internet lines, but are not being connected to them? BT and Open Reach have been unhelpful and unresponsive.

What is SBC doing, or planning to do, to ensure our residents are supported in obtaining FTTP (fibre to the property)? Is the Administration pushing our MP & MSP to support this much required service?

Response from Councillor Scott Hamilton

Scottish Borders Council is working closely with Scottish Government to support the roll-out of R100 ('Reaching 100%') broadband in the Scottish Borders. An update on progress was given to Executive Committee on 13 September 2022.

Openreach is currently building full fibre networks across the Scottish Borders.

Some of this build is commercially funded by Openreach, some is part of the Scottish Government's R100 Programme, and some will be privately funded.

Other providers are also building full fibre networks in the Scottish Borders (e.g. Borderlink/Go Fibre).

There are strict rules (State Aid/Subsidy Control/Procurement) in place that determine where public money can be spent on new broadband infrastructure – these apply to the R100 Programme.

The R100 Programme supports all properties to access speeds above 30 Mbps.

Properties not in commercial plans or the R100 contracts are eligible for a voucher of up to £5,000 via the R100 Scottish Broadband Voucher Scheme to provide access.

Residents and businesses can check if they already have a superfast connection, or when a superfast connection is planned, by entering their postcode at <u>www.scotlandsuperfast.com</u> and this site also provides a range of further useful information.

Question from Councillor Begg

To Executive Member for Environment and Transport

Is the Executive Member aware of industrial peat extraction in Scottish Borders and do they support this?

Response from Councillor Linehan

There is one site in the Scottish Borders where peat extraction is currently being undertaken, at Whim Moss near Lamancha. The site has been operating since the late 1970's and has a valid permission that extends to 31 December 2040. A determination of minerals planning conditions application was granted in 2001, which was then subject to a periodic review in 2016. The terms of the planning conditions will be reviewed again in 2031. The site is operated by Westland Horticulture.

Historically, there has been peat extraction permissions in the Scottish Borders at Kitleyknowe near Carlops, which is now restored and at White Moss to the SW of West Linton, which is a dormant site that no longer has valid consent to operate.

The Development Plan and any other material factors must guide the Council's consideration of any proposals for peat extraction. Both the Adopted and Proposed Local Development Plans contain policies (Policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) and Policy ED12 (Mineral and Coal Extraction)) that seek to protect against development that results in the permanent loss of significant carbon rich soil reserves.

Whilst there is no specific policy on peat extraction in either plan, the version of Policy ED12 included in the Proposed Plan now includes explicit reference to peat extraction. The last paragraph of the proposed policy states:

"There will be a presumption against peat extraction and other developments likely to have an adverse effect on peatland and/or carbon rich soils within class 1 and 2 peatland areas".

The precise wording of this policy will be determined during the current Examination on the Proposed LDP but it does reflect closely the wording recommended to the Council by NatureScot, in its representations to the Proposed Local Development Plan

It is anticipated that the revised National Planning Framework 4 (NPF4) will be laid before parliament this autumn and approved in the early part of 2023. It is important to note that NPF4 will become part of the development plan once approved and that this will provide the strategic policy direction and guidance for considering any application for peat extraction.

As currently drafted, the policies in the Draft NPF4 emphasise strongly the need to protect peat resources and focus on restoration of peatland/peatland environments rather than peat extraction. However provision (d) of draft Policy 33: Soils specifically states that:

"Development proposals for new commercial peat extraction, including extensions to existing sites, should not be supported, unless:

• the extracted peat is supporting an industry of national importance to Scotland, and

• there is no reasonable substitute; and

• the area of extraction is the minimum necessary and the proposal aims to retain a residual depth of peat of no less than one metre across the whole site; and

• the time period for extraction is the minimum necessary; and the proposal is supported by a comprehensive site restoration plan which will return the area of extraction back to its original environmental status".

Whilst this policy may be subject to change through the review of consultation responses and the parliamentary process, it does give a strong indication of the "route of travel" of the policies relating to peat extraction.

Supplementary

Councillor Begg asked if Councillor Linehan and Scottish Borders Council could seek to influence Scottish Government delivery plans and support the alternative of mass composting from waste to prevent the further destruction of peat bogs. Councillor Linehan confirmed she would consult with officers and respond directly to Councillor Begg.

Question from Councillor Robson

<u>To Executive Member for Education and Lifelong Learning</u> Is there a programme to improve wifi reception and to replace white boards in primary schools?

Response from Councillor Douglas

The project for additional and improved wifi in primary is progressing with CGI.

Work in Secondary schools will commence in November to ensure additional areas of schools also have robust wifi.

There is not, nor has there ever been, a programme to replace and sustain interactive whiteboards in primary schools. These boards are additional kit which have been procured by schools independently of IT provision.

Inspire Learning does not require interactive screens, instead making use of projection (or "casting") using a projector or Apple TV device and a white surface. Provision for this was made within the rollout of iPads with Apple TV's provided in all schools. While iPads can interact with Interactive boards, the casting solution is more sustainable and cost effective and therefore when boards come to end of life, replacement can be with a simpler kit.

Supplementary

Councillor Robson asked if an update on progress could be provided in due course and Councillor Douglas agreed to raise this with officers.

Question from Councillor Steel

<u>To Executive Member for Environment and Transport</u> What plans are in place to deal with the twin threats of Sudden Larch Death and Ash Dieback?

<u>Response from Councillor Linehan</u> Thank you for your question.

Larch and sudden oak death are coordinated through Forestry Scotland.

If SBC suspect that there may be a case of this, then Council Officers will report this to Forestry Scotland's regional Area Plant Health Officer. As far as we are aware there have been no cases to date.

Forestry Scotland have a national database for Phytophthora (diseases which causes sudden larch and oak death), along with details of restrictions and co-ordinated movement for timber production in this regard.

The cyclical risk assessment that the Council undertakes picks up on any Ash tree(s) which may have Ash Dieback Disease and require action, and also looks at other disease in trees.

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.

The Association for Public Service Excellence (APSE) have produced a briefing note on Ash Dieback Disease. This provides a summary survey results carried out by UK local authorities, looking at the impact of Ash Dieback including estimated tree losses, the financial costs of dealing with the disease, future threats and some of the techniques local authorities are using to gather more data on the disease, including how any losses will be addressed through the planting of new trees including biosecurity considerations.

Officers can provide copies of latest advice from STOG and APSE if this would be helpful.