

Report of:	Andy Preston – Elected Mayor of Middlesbrough Charlotte Benjamin – Director of Legal & Governance Services Ian Wright – Director of Finance
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Submitted to:	Council, 7 th July 2021
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Subject:	Castle School, Stanhope – Position Update
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Summary

Proposed decision(s)
<p>That the Council notes the current position and approach in relation to legacy claims being made against the Council for historical abuse at the former Stanhope Castle School, including regular updates to the Stanhope Survivors Group.</p> <p>That the Council delegates responsibility for the ongoing management of any legal claims in respect of Stanhope Castle to the Director of Legal & Governance Services and the Director of Finance.</p>

Report for:	Key decision:	Confidential:	Is the report urgent?¹
Noting	No	Not applicable	No.

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
No specific impact.	No specific impact.	Although there is no direct impact on any of the targets in the current strategic plan, the ongoing management of claims in relation to historical abuse can have both a financial and reputational impact on the Council's standing.

Ward(s) affected
General impact on the Council. No specific wards affected.

What is the purpose of this report?

1. To brief Members of the Council on the current position in relation to legal claims being made against the Council by a group of survivors of alleged sexual and physical abuse. These were children at The Castle School, Stanhope ('the School') in the current County Durham when the alleged abuse took place.

Why does this report require a Member decision?

2. Although a member decision is not required, members of the Council have asked for recurring updates in relation to the legal claims being made and the support being given to survivors of the alleged abuse.

Report Background

3. The School was established in 1941 as an approved school under the control of the Home Office. In 1973, following the abolition of approved schools, it became a community home and transferred to Teesside County Borough Council. When that was abolished in 1974, responsibility for the school transferred to Cleveland County Council. The school closed in 1981. When Cleveland County was abolished in 1996, its liabilities – including in respect of the School – were transferred to the four successor unitary authorities and administered by Middlesbrough Council on behalf of the four authorities.
4. The School was in a very rural location and quite isolated from other communities and educational facilities. Most students at the school were boarders as a result. Since the school closed there have been many reports made by former pupils, that they were physically and/or sexually abused by staff at the school during the time they were there.

Middlesbrough Borough Council Responsibilities

5. Whilst the Council itself had no role in running the School, it is responsible for administering the legacy of claims that have subsequently emerged from that Institution. This is from two perspectives:
 - As a unitary local authority, the Council has a number of statutory duties under the Children Act 1989 and the Children Act 2004, including education, children's social services and the safeguarding and promotion of children's welfare. At the time that the School was open the Council was responsible for the welfare of children from our area.
 - The Council also has responsibility on behalf of the four unitary authorities for managing the residual insurance affairs of previous authorities. From Dec 1941 to March 1973 whilst the school was run by the home office no insurance cover exists. All liabilities were transferred uninsured to predecessor authorities. Mutual Municipal Insurance (MMI) insured both Teesside Borough Council and Cleveland County Council (from April 1973 to March 1996) for public liability claims. MMI stopped underwriting new insurance policies in the early 1990's and is now in administration as its historic claims are dealt with and finally settled.

Claims made against the Council

6. To date 33 civil claims have been made against the Council in respect of alleged physical and sexual abuse suffered at Stanhope Castle. The majority of the claims proceeded in two tranches. The first tranche was brought in the early 2000s and focused on alleged physical abuse only. Those claims were handled by MMI and were eventually settled in 2010 for sums ranging between £1,000 and £10,000 each in order to bring these claims to a close. This was on the basis of there being evidence of physical abuse having taken place at the School. The second tranche included claims for sexual abuse in addition to physical abuse. The sexual abuse claims commenced in around 2014 and included uninsured claims and MMI-insured claims. Those claims never progressed beyond the stage of pre-action correspondence, primarily due to a lack of corroborating evidence (including criminal convictions) and difficulties in respect of Limitation.

Limitation

7. The Limitation Act 1980 imposes time limits, known as limitation periods, within which claimants must bring their claims. The purpose of limitation periods is to strike a balance between the rights of claimants to bring claims and the interests of defendants in not having to defend historic cases when, for example, it may be difficult to establish what happened due to the passage of time. This is a key defence in these type of cases.

IICSA

8. The School was one of a number of Case Studies investigated as part of a recent report by the Independent Inquiry into Child Sexual Abuse. This considered the problems that victims of abuse face when bringing legal proceedings against responsible individuals and organisations. The council's former Chief Finance Officer gave evidence to the IICSA inquiry regarding the Council's position on these claims. The IICSA inquiry made a number of suggestions to the Ministry of Justice around how Child Sexual Abuse claims are dealt with in the legal system and the Council will await the government response to these and then reconsider the position.

Current Position

9. In addition, the IICSA enquiry concluded that although some victims of abuse were interested in financial compensation, most wanted acknowledgement of 'what they had been through' and an apology from whoever is responsible. IICSA suggested that a redress scheme be put in place for any local authority who had claims of this nature, which would allow them to acknowledge the abuse, offer an apology and to compensate claimants in financial terms in full and final settlement of any claims, to avoid the need for any litigation.
10. After the IICSA inquiry, the Group wrote to the Mayor asking for a public apology and for the Council to set up a redress scheme to deal with any claimants that had been abused. This was not taken forward given the financial risk of setting up this type of scheme, where the Council could not be satisfied of an evidential basis to establish whether claimants had either been resident at the school or had been abused in any way. The Mayor advised that Stanhope survivors should continue to pursue their

claims through the civil courts. No further claims (new or resurrected) have been made since the IICSA report was published in late 2019.

11. In order to be as supportive and transparent as possible, the Mayor and senior officers of the Council have met virtually with the current survivors group before this report is published. The meeting will be to brief the Group on the contents of this report before it is made public and also to update them on the current strategy of the Council in relation to any historic abuse claims. A verbal update on the key issues from this update will be given to Members at the Council meeting.

What decision(s) are being asked for?

12. That the Council notes the current position and approach in relation to legacy claims being made against the Council for historical abuse at the former Castle School Stanhope, including regular updates to the Stanhope Survivors Group.
13. That the Council delegates responsibility for the ongoing management of these claims in respect of Castle School Stanhope to the Director of Legal & Governance Services and the Director of Finance.

Why is this being recommended?

14. A regular report to the Council on the ongoing position and approach is considered the best way to keep all Members updated on this subject.
15. As the individual claims and correspondence being received by council officers can be complex and over a lengthy period. The most appropriate approach is for delegated responsibility to be given to the Council's Monitoring Officer and Section 151 Officer to deal with any specific issues on these claims, including any settlement amounts required. Any developments can then be given to Members in the next update.

Other potential decisions and why these have not been recommended

16. The above actions are considered the most effective way of dealing with these matters. No other options are deemed appropriate or effective.

Impact(s) of recommended decision(s)

17. This approach will ensure that both Members and the Survivors Group are updated on developments in relation to information requirements and legacy claims on a regular basis by the Council.

Legal

18. Most legal claims to date have been handled by external solicitors on the Council's behalf due to their specialist nature. The first tranche of physical abuse claims settled in 2011 on the basis that some evidence of this abuse was evident from historical information retained by the Council. The second tranche of physical and sexual abuse cases, mainly received from 2014 onwards, have not progressed beyond pre-action correspondence due to a lack of supporting evidence.

The Director of Legal and Governance Services is in contact with our external solicitors on these issues and will monitor progress on the physical and sexual abuse claims that are currently inactive. If any major developments arise these will be discussed with other relevant officers in the Council and Members will be updated at the earliest opportunity.

Financial

19. The financial cost to the Council of claims settled to date on Stanhope Castle has been minor. As these legacy claims all relate to the previous Cleveland County Council, any cost is split between the four successor authorities in their relevant local government reorganisation percentages and therefore the burden is shared. Updates are given to the other authorities via the Tees Valley Strategic Resources Group when appropriate.
20. If any of the outstanding physical/sexual abuse cases progress to Court and are settled in the claimants favour then the costs could be significant based on the length of time since the abuse was committed. These costs are by their nature extremely speculative and difficult to predict. Given the likelihood of success is deemed to be very low at present, no specific provisions are held in the Council's accounts for these amounts. Any amounts could be catered for from general reserves.
21. One of the options suggested by the IICSA inquiry was to establish a financial redress scheme to deal with any claimants that had been abused. This would compensate individuals based on a pre agreed amount if attendance at the school could be proved. As indicated earlier, the financial risk to the Council of operating this type of scheme could be severe given that the length of time the establishment was operational and the difficulty in proving whether abuse did or did not occur. As a result the Council would prefer these claims to progress through the Civil Courts and any financial settlements if successful would be determined by the Court. These amounts would be provided for through the Council's medium term financial planning process as and when they occur.
22. The risk to Middlesbrough Council of setting up a redress scheme is increased as a result of the shared liability with the other three successor authorities to Cleveland County Council. Should Middlesbrough act unilaterally then there would be no obligation on the other Councils to follow suit, this could leave Middlesbrough in the position of bearing the full cost of claims without redress to our insurers.

Policy Framework

23. As the contents of the report relate to historical issues and legacy claims from its predecessor authority, these and any actions/delegations required must be dealt with by full Council under the Constitution.

Equality and Diversity

24. There are no direct equality or diversity issues to be addressed as part of this report.

Risk

25. The risks contained in this report relating to historical abuse at Stanhope Castle (primarily legal, financial and reputational) are included within the Council's strategic register and updated on a quarterly basis by the relevant Head of Service. Any major

changes to the risk rating applicable to this area will be highlighted to CMT and then to Executive as part of the regular monitoring arrangements for the Council.

Actions to be taken to implement the decision(s)

26. The actions recommended in this report will ensure that the current strategy in managing any legacy issues is openly endorsed by the Council and clearly communicated to all relevant stakeholders. This will be done on a regular basis, as will any correspondence with the Stanhope Survivors Group.

Appendices

27. There are no appendices to this report.

Background papers

28. No background papers were used in the preparation of this report.

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