FALKIRK COUNCIL

Subject: **DECISION MAKING STRUCTURES**
Meeting: **FALKIRK COUNCIL**
Date: **12 NOVEMBER 2014**
Author: **CHIEF EXECUTIVE**

1. **INTRODUCTION**

1.1 Council adopted a new decision making structure on 19 March 2013. The Scheme of Delegation supporting that structure was agreed on 24 April 2013 and revised Standing Orders were put in place on 25 June 2013.

1.2 The report to Council in April 2013 recognised the benefit of reviewing how well the new structure was working after a period of time, to establish whether the outcomes set out at the start of the exercise were being achieved. A period of 12-18 months was suggested.

1.3 As part of the review, the Leader of the Council, the Leader of the Opposition and the Provost have met on several occasions throughout the year. In addition to looking at how the new structure has been working, there has been discussion about levels of participation, recognising the absence of Opposition members from most decision making and scrutiny meetings, and whether agreement could be reached which would result in greater participation. This report is brought to Council to allow the opportunity for any decisions arising from these discussions to be taken.

2. **BACKGROUND**

2.1 The key features of an effective decision making structure have been identified by Audit Scotland as:

Efficiency:	decisions should be taken quickly, responsively and accurately to meet the needs and aspirations of the community.
Accountability:	decision makers should be answerable to the community.
Transparency:	it should be clear to communities who are responsible for making decisions.
Operations:	the process of decision making should be open to examination by all stakeholders.
Inclusiveness:	all relevant stakeholders should be actively involved in the decision making process.

2.2   Before adopting the new decision making structure in Falkirk, members had identified a number of issues they wanted to be borne in mind when designing the structure. Among them were:

- the need for quicker, more efficient decision making;
- consideration of the number and length of meetings members were expected to attend;
- the need to reduce the workload in committees thus enabling members to spend more time in their constituencies;
- the length of reports and accompanying papers submitted to committees and the unreasonable expectation on Members to read and analyse lengthy reports within a short period of time and with other competing demands;
- the number of reports that are presented to Members for information only;
- the excessive amount of paperwork produced;
- the need to ensure meaningful scrutiny of significant items, with a focus on outcomes, and the concern that previous scrutiny arrangements and had favoured breadth over depth;
- ensuring that any decision making structure is transparent, open and understandable to the public; and
- the ability to bring in external expertise for consideration of particular issues while retaining accountability.

2.3   With the aspiration of addressing some or all of these concerns, the decision making model adopted by Council consists of an Executive/Education Executive (akin to a cabinet) counterbalanced by a Scrutiny Committee. Council itself remains the principal forum for determining how the business of the Council is discharged and for setting the budget and key corporate plans. The Executive/Education Executive has full powers to take decisions on behalf of the Council except those reserved to Council itself or delegated elsewhere while the role of the Scrutiny Committee is to establish, implement and oversee the Council's annual scrutiny plan.   The Scrutiny Committee also monitors performance by:
- Falkirk Community Trust (FCT) against the annual business plan;
- Police Scotland and the Scottish Fire and Rescue Service against their local plans; and
- Organisations funded by the Council under Following the Public Pound (FTPP) arrangements.

2.4   There are, in addition, a number of other regulatory committees.

2.5   The Executive and the Scrutiny Committee both have powers to set up Panels to act as advisors to them and to take forward more in-depth pieces of work: they are, respectively, Policy Development and Scrutiny Panels. Since the advent of the new structure a variety of Panels have been constituted to look at the following matters:

2.6   **Policy Development Panels**
- Culture and Sport Strategy - to review the draft strategy and to make recommendations to the Executive.

- Bereavement Services - to consider the Council's long term approach to the provision of cemetery space and other policies covering cemeteries and crematoria, ensuring they are fit for purpose, meet customer needs and have appropriate standards for the short, medium and longer term.
- Community Councils - to review the Council's Scheme for the Establishment of Community Councils and the support provided by the Council to them.
- Tourism – to identify priorities for developing tourism in the Falkirk area and to engage other partners in a shared approach to developing the sector.
- Open Space - to review the Falkirk Council Open Space Strategy and Parks Development Plan.
- Civic Licensing - to review certain areas of civic licensing activity.

2.7 **Scrutiny Panels**
- Citizens Advice Bureaux - to examine the role of CABx within the Falkirk Council area.
- Outside Organisations -   to scrutinise the appointment of elected members to outside organisations and the process for reporting to Council.
- Consultation and Engagement - to scrutinise the adequacy of consultation with the public and community engagement more generally.

2.8 The Scrutiny Committee has also established a standing Performance Panel with a remit to scrutinise service performance throughout the Council. The Committee considers matters arising from the Panel and is currently using that intelligence to develop its second annual scrutiny plan for recommendation to Council. Areas where reports have recently been sought in this connection include:

- the effectiveness of the Business Gateway service following its transfer in-house;
- the impact of the Freedom of Information (Scotland) Act 2002 and, in particular, the volume of requests to the Council and the cost arising therefrom, in addition to the Council's effectiveness in dealing with requests;
- Head Teacher recruitment, the secondment of head teachers from schools and the use of acting position in schools and Education Service management;
- the educational attainment of looked after children and other vulnerable groups; and
- the operation of the complaints system within the Council and, in particular, the extent to which complaint outcomes are considered and lessons learned for the future.

Committee Membership

2.9 The Executive/Education Executive consists of 12 members, with 9 places drawn from the Administration (the Leader together with 8 portfolio holders) and 3 from the Opposition. While nominations were received for all 12 places, only one member of the Opposition has attended meetings, albeit infrequently.

2.10 The Scrutiny Committee consists of 10 members, with 6 places drawn from the Administration and 4 from the Opposition. Nominations were received for the 4 Opposition places but those members subsequently resigned and the places have since remained vacant.

2.11   None of the Opposition places on the Policy Development and Scrutiny Panels have been taken up. However, while not taking up the places allocated to them on the core Performance Panel, members of the Opposition do attend and take part in Performance Panel meetings.

2.12   The Executive/Education Executive is convened by the Leader of the Council as set out in Standing Orders. Convenership of the Scrutiny Committee is a matter for the Committee itself to decide. At its inaugural meeting, Provost Reid was appointed to the chair, there being no other nominations. However, Provost Reid confirmed his view at the meeting (and has maintained the position since) that he would demit the chair to the Opposition should they decide to participate in the Committee.

2.13   The absence of an engaged opposition from committee meetings is a cause for concern which has been commented on by Audit Scotland. That absence also impacts on the ability to properly review the effectiveness of the new structure. Without full participation from all sides of the chamber, the structure cannot be said to have been tested fully. Equally, the workload, particularly on the Scrutiny Committee and on the PDPs and Scrutiny Panels, tends to fall on a small body of members which inevitably impacts on their ability to get through a challenging workload.

2.14   It bears recognising that any decision making process depends to some degree on the reasonableness of those who operate within it. In its annual review of Aberdeen City Council, Audit Scotland recognised that 'politics is an integral part of local government leadership, however it is important that they can be set aside to support the constructive working of the Council. We observed political tensions among councillors in several Council meetings which have impacted on the effectiveness of the decision making process."

Leaders' meetings

2.15   The matters outlined above have been the subject of useful discussion at a senior level as noted in paragraph 1.3. and the following areas of consensus, which flow from the decision of Council in December 2013, have been reinforced:

- the chair of the Scrutiny Committee is available to be taken up by a member of the Opposition;
- the same applies to the Performance Panel; and
- major changes in policy will be subject to a PDP.

2.16   During these initial discussions, the following issues also emerged as matters of continuing concern to the Opposition:-

- the composition (political balance) of the Scrutiny Committee;
- the extent of the autonomy or flexibility of the Scrutiny Committee;
- the importance of a role for all members of the Council in decision making; and
- whether there was a role for some pre-consideration or scrutiny of matters to be considered by the Executive and Education Executive.

2.17   These issues were addressed within the discussions as follows:-

Scrutiny Committee

2.18   It was recognised that the composition of the committee was a matter for decision by members and would remain a matter for discussion between and within groups and ultimately a decision by Council. The proposal considered thus far (but not agreed) is for a 5:5 split between Administration and Opposition members.

Flexibility for the Scrutiny Committee

2.19   In officers' view, there is already significant scope for flexibility within the current scheme, as illustrated below:

- The core of the committee's work is the development and implementation of the annual Scrutiny Plan. In addition, it receives regular reports on FCT, Police and Fire Service performance and on organisations funded under FTTP arrangements. It also receives reports from Scrutiny Panels established by it and the minutes from Performance Panel meetings.
- The role of developing the annual plan requires the committee to keep under consideration the contents of the next annual plan which it proposes to recommend to Council. In doing so, it would be open to the committee to consider issues arising from its business in more depth with a view to determining whether these are suitable subjects to recommend for in depth scrutiny.   For instance, it would be open for the committee to call for a report on a matter raised in a Performance Panel minute to consider if it is a suitable issue for inclusion in the scrutiny plan. As illustrated in paragraph 2.8, this is already happening.
- The role of developing the plan is also sufficiently wide to allow the committee to call for reports on matters other than those arising directly from the business before it where it considers the report would inform its development of the scrutiny plan. There is, however, no general call-in power in relation to the decisions of the Executive or Education Executive to Scrutiny Committee and the generality of the foregoing statement needs to be read in that context. Accountability for these decisions is established through the ability to submit formal questions to portfolio holders at Council meetings.

Involvement of Members and Pre-consideration or Scrutiny of Executive and Education Decisions

2.20   These are taken together as a proposal emerged which attempted to address both concerns. This initially took the form of standing policy panels (potentially 2 in number) which would consider relevant reports in advance of meetings of the Executive and Education Executive. The initial suggestion was that these would consist of the relevant portfolio holders and the shadow spokespersons. There was some further discussion about making the membership more flexible either by allowing for substitution (including by non-Executive members) or potentially forming one standing panel with a flexible membership to be determined in accordance with the business to be undertaken. There was some concern about the scope for duplication and delay arising from such panel or panels (contrary to one of the objectives of the new system) and a view that discussion between the portfolio holder and their opposition counterpart could take place prior to the Executive (or Education Executive) without the need for a formal body. No consensus was reached on this point.

3. CONCLUSION

3.1 The new decision making structure has been in operation for around 18 months now. Members will be able to assess whether it is meeting the concerns previously expressed and summarised at paragraph 2.2. It is acknowledged that the structure hasn't been fully embraced by all members and this has impacted on levels of engagement. Discussions have taken place at senior member level which showed signs of delivering progress. This report seeks to provide an opportunity for that progress to be realised.

3.2 In its best value report on Argyll and Bute Council, Audit Scotland commented that "politics is an integral part of local government and tensions are not unusual. However, we have identified through our BV work across Scotland that, in the best performing councils, councillors are able to identify when to set aside political differences and work in a constructive way to support the work of the council."

4. RECOMMENDATIONS

Council is invited to consider the content of this report with a view to establishing whether there is benefit in any changes to the decision making structures being made at this stage and, if not, to consider how a more formal review of the structure should be taken forward, consistent with the decision of Council taken in December 2013.

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CHIEF EXECUTIVE
Date: 3 November 2014

Ref: HJC 141112
Contact Name: Mary Pitcaithly Ext 6002

LIST OF BACKGROUND PAPERS

Nil