

FALKIRK COUNCIL

Subject: AMENDMENT TO SCHEME OF DELEGATION
Meeting: FALKIRK COUNCIL
Date: 8 OCTOBER 2008
Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to submit a revised Scheme of Delegation in line with the decisions agreed by Council in June 2008 and the Housing and Social Services Committee in September 2008.

2. BACKGROUND

- 2.1 At the meeting of Falkirk Council on 25 June 2008, Members agreed the following:

“Standing Orders to be revised to allow Scrutiny Committees to respond directly to consultation papers etc within their remit to take decisions on issues that do not change or materially alter Council policy or involve additional resources or changes to the establishment.”

- 2.2 On 2 September 2008 the Housing and Social Services Committee, on consideration of a report prepared by the Director of Corporate and Neighbourhood Services on “The Registration of Private Landlords”, approved the recommendation that “decisions other than the refusal of applications for registration and revocation of any such registration which will be reserved to the Civic Licensing Committee, will be taken by officers.” The Committee agreed that this decision be referred to Council for approval in respect of the amendments to the Council’s Scheme of Delegation, to reflect the delegation of decision making power.

3. SCHEME OF DELEGATION

- 3.1 There are three additions required to the Scheme of Delegation which are:

- **Policy & Resources Committee;** revise paragraph 9 – insert text to read: “which materially alter existing Council policy or involve additional resources or changes to the establishment” (Appendix 1)
- **Powers of Scrutiny Committees** – insert new paragraphs to become paragraphs 2 and 3, namely:-

Paragraph 2 - The Scrutiny Committees will authorise appropriate responses to consultation documents submitted to the Council in accordance with the remit of each Scrutiny Committee.

Paragraph 3 - Scrutiny Committees will decide upon any matter within their remit providing that the decision does not change or materially alter any Council policy, or involve additional resources, or changes to the establishment. (Appendix 2)

- **Civic Licensing Committee** – revise paragraph 1 by inserting the text highlighted below and insert new paragraph 3, namely:-

Paragraph 1 - To discharge the Council's regulatory and enforcement functions, in accordance with Council policy with the exception of those matters delegated to the Director of Development Services and listed in paragraph 2 and to the Director of Corporate and Neighbourhood Services as listed in paragraph 3 hereunder and so far as not delegated to any other Committee or officer which relate (but not exclusively) to:

- (i) the functions of the Council in relation to all licensing matters under the Civic Government (Scotland) Act 1982 and all other Acts covering personal or other licences, certificates and permits (excluding all matters dealt with by the Licensing Board), including licences and permits in respect of cinemas and theatres, betting, gaming and lotteries, taxis, charitable collections, animal boarding establishments, riding establishments, second-hand dealers, boat hirers, places of public entertainment and the registration of landlords.

Paragraph 3- The Director of Corporate and Neighbourhood Services is authorised to exercise all decisions relating to the registration of private landlords except for the refusal of applications for registration and the revocation of registration which will be reserved to the Civic Licensing Committee. (Appendix 3)

4. RECOMMENDATION

- 4.1 **Members are asked to agree the revisions to the Scheme of Delegation as detailed in this report.**

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Acting Director of Law and Administration Services

Date: 25 September 2008

Contact Officer: Andrew Rose, Committee Officer, ext 1277.

LIST OF BACKGROUND PAPERS

NIL

SCHEME OF DELEGATION TO COMMITTEES

POLICY AND RESOURCES COMMITTEE

Terms of Reference

1. To be the Council's main instrument of policy, to give strategic policy direction in relation to all the Council's functions and to have overall responsibility for implementing agreed policies and strategies.
2. To initiate debate and analysis on substantial policy issues which relate to the Council's functions or have a significant impact on the Council area or its residents.
3. To determine such substantial policy issues after debate and analysis by other Council Committees.
4. To decide other policies and strategies to meet the Council's overall objectives.
5. To set the overall policy framework for other Committees, to refer reports and issues for consideration to those Committees and to receive reports from them.
6. To determine all matters relating to capital and revenue financing and borrowing and to recommend to Council an overall financial strategy, the annual revenue and capital budgets and the rate and Council tax to be levied.
7. To ensure that the organisational, administrative and management procedures of the Council are such as to make the most efficient contribution to achieving the Council's objectives and to keep these procedures under review in the light of changing circumstances.
8. To review the effectiveness of the Council's work and policies and the standard and level of services provided.
9. To consider any new policies or changes in policy which materially alter existing Council policy or involve additional resources or changes to the establishment suggested by any other Committee and the effect of these on the policy plans and resources of the Council.
10. To be responsible for all matters relating to employees of the Council and their terms and conditions of employment and terms of service.
11. To monitor budget performance.
12. To set strategies for partnership and influence outside the Council.
13. To deal with service delivery and the discharge of all Council functions.

Scrutiny Committee Powers

3. The Scrutiny Committees will authorise appropriate responses to consultation documents submitted to the Council in accordance with the remit of each Scrutiny Committee.
4. Scrutiny Committees will decide upon any matter within their remit providing that the decision does not change or materially alter any Council policy, or involve additional resources, or changes to the establishment.
5. The Scrutiny Committees will develop policy proposals referred to them by the Policy and Resources Committee or by Council, within their own terms of reference. The Scrutiny Committees will:-
 - (i) Receive policy proposals from the Policy and Resources Committee;
 - (ii) Identify the main issues to be addressed;
 - (iii) Identify the primary means by which they should be addressed;
 - (iv) Identify the appropriate financial implications;
 - (v) Report back to the Policy and Resources Committee;
 - (vi) Propose policy objectives to the Policy and Resources Committee;
 - (vii) Review, monitor and make determinations on specific policy and service delivery issues referred to it by the Policy and Resources Committee;
 - (viii) Investigate, monitor, oversee and comment on how Council services are delivered and any other matters where the Council has powers or duties or which affect the Council area or its residents and which have been referred to it by Policy and Resources Committee.
6. As part of this process, the Committees may undertake public consultation to influence the development of the policy proposals. They will have the power to agree appropriate mechanisms for this process, such as holding public meetings, setting up focus groups or panels, or inviting persons with particular expertise in areas being considered by Committee to address the Committee or to take part in meetings.
7. The Scrutiny Committees:-
 - (a) Where a Scrutiny Committee has been granted decision making powers in respect of any item of business and is exercising these powers (i.e., where the committee is not reporting back to Policy and Resources Committee or Council) and where there is a vote (with the exception of those votes on procedural motions defined in Standing Order 24.1) and where at least one quarter of those members present and voting dissent against the decision, the decision will be referred to either a special meeting of the Council or the next scheduled meeting of the Council if, within three working days of the committee meeting, at least one quarter of those present and voting and who dissented intimate in writing to the Director of Law and Administration the desire to follow such a route. If,

after three working days have elapsed there is no such intimation then the matter will be considered to have been settled by the Committee.

- (i) will receive policy development proposals or policy issues within their terms of reference from the Policy and Resources Committee;
- (ii) will consider the proposals or issues and report on them to the Policy and Resources Committee within the timescale set by Policy and Resources;
- (iii) will have those decision making powers specifically delegated to them by Council or by Policy and Resources Committee;
- (iv) will have power to regulate their own proceedings.

8. In considering the proposal or issue, the Scrutiny Committee:-

- (i) will identify the main issues to be addressed, the primary means by which they should be addressed and any financial implications;
- (ii) may work in partnership with outside bodies in the public, voluntary and private sectors;
- (iii) may establish working groups, and joint working groups with outside bodies, and consider their reports; and
- (iv) may consult the public or sections of the public, and establish mechanisms for this purpose.

9. In reporting on the proposal or issue, the Committee should comment on it and may propose amendments.

10. No member of the Policy and Resources Committee may be a standing Member of a Scrutiny Committee.

11. The Scrutiny Committees may not establish Sub-Committees of the Council nor delegate decisions to officers of the Council, unless authorised by Council or the Policy and Resources Committee.

12. Without prejudice to any other power, to the extent that any of the respective areas of remit of the Scrutiny Committees cover any of the client functions of the Council's Direct Labour/Service Organisations, each of the Scrutiny Committees so involved will be responsible directly to Council for monitoring and reviewing the performance of the Direct Labour/Service Organisations within the respective terms of reference of the Committees.

CIVIC LICENSING COMMITTEE

Terms of Reference

1. To discharge the Council's regulatory and enforcement functions, in accordance with Council policy with the exception of those matters delegated to the Director of Development Services and listed in paragraph 2 and to the Director of Corporate and Neighbourhood Services as listed in paragraph 3 hereunder and so far as not delegated to any other Committee or officer which relate (but not exclusively) to:
 - (i) the functions of the Council in relation to all licensing matters under the Civic Government (Scotland) Act 1982 and all other Acts covering personal or other licences, certificates and permits (excluding all matters dealt with by the Licensing Board), including licences and permits in respect of cinemas and theatres, betting, gaming and lotteries, taxis, charitable collections, animal boarding establishments, riding establishments, second-hand dealers and boat hirers, places of public entertainment and the registration of landlords.
 - (ii) the functions of the Council under the Safety of Sports Grounds Act 1975.
2. The Director of Development Services is authorised to determine the following licensing matters:
 - (i) to grant taxi drivers and private hire car drivers licences, and taxi and private hire car operators licences, on advice from the Chief Constable that there are no current and where there are no objections; provided that applications for second or subsequent licences for the same applicant will be referred to the Civic Licensing Committee;
 - (ii) to renew taxi drivers and private hire car drivers licences, and taxi and private hire car operators licences, if there are no new convictions since the Civic Licensing Committee's last consideration of the matter (whether in connection with a grant, renewal or default report);
 - (iii) to grant licences for second-hand dealers, window cleaners and street traders, on advice from the Chief Constable that there are no current convictions, and no objections; provided that applications for second or subsequent licences for the same applicant will be referred to the Civic Licensing Committee;
 - (iv) to renew licences for second hand dealers, window cleaners, street traders, market operators and late hours caterers, if there are no new convictions or adverse information received since the Civic Licensing Committee's last consideration of the matter and the licence sought is the same as the licence previously granted;
 - (v) to grant and renew boat hirers, public entertainment, indoor sports entertainment and houses in multiple occupation licences, subject to no objections;
 - (vi) to grant and renew permits for amusements with prizes machines in premises other than hotel and public houses, where they are outwith the class of premises

specified in the Council's resolution and there are no objections or adverse comments received;

- (vii) to grant or renew permits to install all-cash amusements with prizes machines in amusement arcades where there are no objections or adverse comments received;
- (viii) to grant and renew licences for pet animals, dangerous wild animals, game dealers, venison dealers, riding establishments, animal boarding establishments, breeding of dogs, methylated/surgical spirits and film exhibitions subject to no objections or adverse comments being received from the Chief Constable, Firemaster or Head of Environmental and Consumer Protection;
- (ix) to determine applications to licence caravan sites where there are no objections or adverse comments received;
- (xi) to determine applications for permission to hold public processions
- (xii) to determine applications for approval of premises under the Marriage (Scotland) Act 2002 and any associated Regulations; and
- (x) to approve applications for the registration of society lotteries in accordance with the Lotteries and Amusements Act 1976 where there are no current convictions and no objections.

3) The Director of Corporate and Neighbourhood Services is authorised to exercise all decisions relating to the registration of Private Landlords except for the refusal of applications for registration and the revocation of registration which will be reserved to the Civic Licensing Committee.

Provided that if, for any reason, the Director of Development Services or the Director of Corporate and Neighbourhood Services considers it inappropriate to determine an application under delegated powers, the application will be referred for determination to the Civic Licensing Committee.