

FALKIRK COUNCIL

Subject: DECISION MAKING STRUCTURES
Meeting: FALKIRK COUNCIL
Date: 24 April 2013
Author: CHIEF EXECUTIVE

1. INTRODUCTION

- 1.1 Council agreed on 19 March, 2013 to adopt an Executive and Scrutiny model of decision-making. This report takes forward that decision and presents for consideration a Scheme of Delegation (incorporating a proposed role and remits for portfolio holders) underpinning the adopted model, and draft Standing Orders governing meetings.

2. SCHEME OF DELEGATION

- 2.1 The draft Scheme of Delegation is attached as appendix 1 and sets out:-

- the matters that will be reserved to Council;
- the matters delegated to the Executive and to the Education Executive;
- the roles of the policy development and scrutiny panels, and
- the role and remits of the portfolio holders.

- 2.2 As part of the decision taken on 19 March, Council determined that there should be no right to call in to Council decisions taken by the Executive. That then raised the issue of whether the decision-making powers delegated to the Executive would be exclusive or whether they would be exercised concurrently with Council. Council determined that this issue would be considered as part of the review of Standing Orders.

- 2.3 The Scheme of Delegation presented with this report provides for the Executive's powers being exercised exclusively in respect of matters not otherwise reserved to Council or delegated to the Education Executive (or vice versa), a regulatory committee, employment or common good committee or to an officer. However, the Executive may only take decisions that are consistent with the budget and the corporate plans agreed by Council. The decision on whether to adopt exclusive or concurrent competence as the general rule remains before Council for consideration.

- 2.4 Exceptions to the general rule could apply in circumstances where:

- a matter raises issues with significant impact on the Council area which the Provost considers is suitable for debate at Council;
- special circumstances exist which, in the opinion of the Provost, would require an exception to the rule to be made;

- two thirds of the members at a meeting of Council vote in favour of a particular matter being discussed; or
 - the Executive (or the Education Executive) refers any matter within its decision making competence to the Council.
- 2.5 The draft Scheme also refers to the policy development and scrutiny panels and suggests that they should be limited to a maximum of five members and, specifically, that the panels should include a member or members not drawn from the Administration. The panels have no decision making powers and are not formally constituted as committees. This affords them greater flexibility in the way they carry out their role. Scrutiny panels will work in accordance with remits given to them, and guidance developed by, the Scrutiny Committee. This will allow the Scrutiny Committee to develop its own way of working to ensure that the scrutiny activities it carries out (and the activities of the panels) are meaningful. Similarly, policy development panels will work in accordance with guidance developed by the Executive.
- 2.6 Additionally, the draft Scheme sets out a proposed role and remits for each of the nine portfolio holders agreed by Council on 19 March. In general, their role will be to exercise strategic and political leadership within their own portfolios, with the Leader having an overarching leadership responsibility. The role and remits is set out in appendix 2.
- 2.7 It is suggested that the role the Best Value Forum currently performs in scrutinising Service performance could be performed by a standing scrutiny panel.
- 2.8 The remainder of the Scheme of Delegation refers to the Council's other decision making bodies as set out in appendix 5. These bodies remain unchanged in the new model but there would be benefit in reviewing the delegations to ensure that they are clearly expressed and that they continue to be fit for purpose. It is proposed that the refreshed delegations are presented to Council for consideration at the June meeting together with the Scheme of Delegation to Officers. Council has already agreed to consider that latter Scheme at the June meeting at the same time as looking again at contract standing orders and financial regulations to the extent that they need to reflect the new decision making structures.

3. STANDING ORDERS

- 3.1 While the Scrutiny Committee will undertake formal scrutiny of actions taken by the Executive as set out in the annual scrutiny plan, individual portfolio holders will be accountable to Council for actions of the Executive and the Education Executive under their particular remits. This will be through a formal question and answer session at Council meetings as set out in the draft Standing Orders presented with this report.
- 3.2 As referred to in the March report to Council, consultation has taken place with the Provost and the Depute Provost on revisions to the Standing Orders as they relate to meetings. The Standing Orders have also been adjusted to reflect the terms of the draft Scheme of Delegation.
- 3.3 Proposals for amendment contained in the draft Standing Orders as set out in appendix 3, are as follows:-

- clarifying the role of the Provost and incorporating the Standards Commission's guidance for conduct in the chamber;
- reviewing the application of what were previously Standing Orders 18.2 and 18.3. They are now conjoined in one Standing Order. The consent of the Provost will be required to give a personal explanation and no interruption of another councillor's speech will be allowed;
- setting out how motions will be dealt with under the new model. This links to the issue mentioned at paragraph 2.3 above, with motions to Council that fall within the remit of the Executive or the Education Executive standing referred to those committees without discussion at Council. Where the motion is submitted by a councillor who is not a member of either Executive, he or she will be entitled to attend and speak in support of the motion at the Executive meeting. The member will not have a vote at that meeting and the motion would require to be adopted and moved by a member of the Executive before it could be taken forward for formal debate. This provision does not apply to members of either Executive as they have the right to submit motions direct to the Executive;
- providing for notice to be given in advance of motions and amendments, in particular those that refer to the annual budgets or that have financial implications. This is a significant departure from current practice but it is suggested that it could be of benefit in making the decision making process more transparent and potentially also enabling consensus on some issues to arise;
- reducing the time allowed for speeches to six minutes for the mover of a motion or amendment and three minutes for any other speech; and
- introducing a power to the Provost to determine that there has been a material change in circumstances in the event of a decision taken within the preceding 6 months.

3.4 The opportunity has also been taken to tidy up some of the administrative arrangements set out in the Standing Orders.

3.5 It is acknowledged that the new decision making model involves a substantial amount of change. It may be that Council would want to consider some phasing of the changes referred to in this report to ensure that members have had the opportunity to fully consider them. As the first meeting of the Executive Committee is due to take place on 7 May, it will be necessary to determine the Scheme of Delegation at this stage to ensure that business on the Executive and Scrutiny Committee can commence. However, with some exceptions to accommodate the changes contained in the Scheme of Delegation, it would be possible to maintain the existing Standing Orders as they refer to meetings until the June meeting, if that found favour with Council. The changes that would need to be adopted at this stage are set out in appendix 4.

4. OTHER DECISION MAKING BODIES

4.1 Apart from the Executive and Scrutiny Committee, Council will be retaining its standing regulatory committees and employment committees in addition to the Pensions Committee and the Licensing Board. Particular considerations apply to decision-making in these bodies with statute, case law, the Code of Conduct and best practice guidance determining how decisions should be reached. Whipped decisions cannot be taken in

these bodies. It is therefore proposed that the split of membership between the Administration and those not in the Administration (which was agreed for the Executive and Scrutiny Committee) is not replicated on these committees but that the current practice of allocating membership among party groups is continued as a way of ensuring a reasonable spread of membership.

- 4.2 The Joint Consultative Committee is not a formal decision making body but is the meeting at which the Council and the Trades Unions deal with issues of mutual interest. It is proposed that the Council's representation on this body also remains unchanged.

5. CIVIC EVENTS PANEL

- 5.1 The model adopted by Council at the last meeting did not include reference to the Civic Events Panel. Currently it has a membership of three: the Provost, Depute Provost and one other. Its purpose is to determine ceremonial matters and hospitality in accordance with the policy of the Council. The Panel meets irregularly and has minimal business. Most of the ceremonial and civic hospitality issues arise between meetings and are, in the main, determined by officers in consultation with the Provost. It is accordingly proposed that the Scheme of Delegation formally delegates matters previously dealt with by the Panel to the Chief Executive and the Chief Governance Officer (either of whom may take the decision) in consultation with the Provost.

6. APPOINTMENTS TO COMMITTEES

- 6.1 Having determined its Scheme of Delegation, it remains for Council to appoint members to the Executive (and Education Executive) and to allocate portfolios among them. Members of the Scrutiny Committee also require to be appointed. It was agreed at the meeting on 19 March that the members of these committees drawn from outwith the Administration would be as determined among those members or, failing agreement, by Council. It was also agreed that the Leader of Council will convene the Executive (and the Education Executive) while the depute convener will be appointed by the Committee itself. In similar vein, the convener and depute convener of the Scrutiny Committee will be appointed by the Committee.

7. REMUNERATION

- 7.1 In changing the current version of decision-making, it will be necessary to revisit the remuneration framework. Information on this has been provided at previous meetings and is replicated hereunder for ease of reference.
- 7.2 Rates of remuneration for councillors are set out in The Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007. Some of the payments are fixed, e.g. the basic payment that every councillor receives and the amount paid to the Leader of the Council, while other payments are for each Council to decide on within certain financial parameters set out in the Regulations, e.g. the amount paid to senior councillors.

- 7.3 The amended decision making structure adopted by Council does not impact on the role of basic councillors, the Leader or the Provost in terms of remuneration but the nature and role of senior councillors does change.
- 7.4 In terms of the Regulations, the maximum number of senior councillors that can be appointed in Falkirk is fourteen. This number is exclusive of the Leader and the Provost. Each local authority has the flexibility to determine the positions it considers to be senior and thereby meriting higher salaries, with the revised guidance issued by the Scottish Government in April 2010 simply stating that it should be a councillor who holds a significant position of responsibility in the Council's political management structure.
- 7.5 The Council can therefore determine the number of councillors designated as 'senior' up to a maximum of 14, and can determine the rate of remuneration paid to each, provided that no councillor is paid more than 75% of the payment made to the Leader of the Council (i.e. not more than £24,352) and the total amount paid to all senior councillors does not exceed £284,105.

8. BAILLIES

- 8.1 Council also agreed at the last meeting to appoint two Baillies and those appointments are before Council today.

9. SCRUTINY COMMITTEE

- 9.1 In accordance with the timetable of meetings agreed in March, the first meeting of the Scrutiny Committee was due to take place on 9 May. It has since been confirmed that this is the same day that a significant civic event is taking place in the area, namely the unveiling of the Spitfire memorial at Grangemouth. Several members of the Council will be involved in that event, led by the Provost. It is accordingly suggested that the scrutiny meeting is held one week later, on 16 May at 10.30am. It is understood that this has been the subject of discussion between members of the two main groups on the Council and is supported.

10. TRANSITIONAL ARRANGEMENTS

- 10.1 It is necessary to provide for certain transitional arrangements to apply from the agreed date of commencement of the new arrangements until matters such as the review of the remainder of the Scheme of Delegation, the Scheme of Delegation to Officers, contract standing orders and financial regulations has been completed. It is proposed that during this transitional period necessary amendments are to be read into the remainder of the Scheme of Delegation, the Scheme of Delegation to Officers, contract standing orders, financial regulation and relevant Council policies:-

- (1) where reference is made to Policy & Resources Committee or one of the scrutiny committees, such reference shall be read as being to the Executive or the Education Executive, as appropriate;

- (2) where reference is made to the Convener or Depute Convener of Policy & Resources Committee, such reference shall be read as being to the Leader; and
- (3) where reference is made to the Convener or Depute Convener of one of the scrutiny committees, such reference shall be read as being to the relevant portfolio holder.

11. REVIEW

- 11.1 The newly adopted decision making structure together with the proposed changes to the Scheme of Delegation and to Standing Orders represents a significant change for Council. As with any change of this nature, it would be prudent to review its efficacy over time to ensure that the desired outcomes are being achieved. It is accordingly suggested that Council reviews the way the structure is working after a period of, say, 12-18 months.

12. RECOMMENDATIONS

12.1 It is recommended that Council:

- (1) considers the Scheme of Delegation and the proposed role and remits for portfolio holders as set out in appendices 1 and 2;
- (2) if the Scheme is adopted, appoints the eight portfolio holders in addition to the Leader of Council;
- (3) agrees that that part of the Scheme set out in appendix 5 is continued to the June meeting of Council for review;
- (4) appoints to the Executive three members of Council who are not part of the Administration;
- (5) appoints to the Scrutiny Committee six members from the Administration and four members who are not part of the Administration;
- (6) considers the Standing Orders as they relate to meetings as set out in appendix 3, having regard to the suggestion contained in paragraph 3.5, and, in the event that a phased approach is favoured, adopts the transitional arrangements in appendix 4;
- (7) appoints two Baillies;
- (8) amends the current remuneration framework in light of the changing roles for senior councillors;
- (9) confirms that membership of the existing regulatory and other committees and the Licensing Board will remain unchanged;

- (10) considers whether decisions about expenditure on civic events should be delegated to the Chief Executive and the Chief Governance Officer (either of whom may take the decision) in consultation with the Provost;
- (11) moves the date of the first Scrutiny Committee meeting from 9 May 2013 to 16 May 2013;
- (12) determines a commencement date for the new arrangements; and
- (13) agrees the transitional arrangements set out in paragraph 10.

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Chief Executive

Date: 16 April 2013

LIST OF BACKGROUND PAPERS

Nil