

FALKIRK COUNCIL

Subject: DECISION MAKING STRUCTURES
Meeting: FALKIRK COUNCIL
Date: 26 JUNE 2013
Author: CHIEF EXECUTIVE

1. INTRODUCTION

1.1 At the meeting on 19 March 2013, Council adopted an Executive and Scrutiny model of decision making. At the following meeting on 24 April 2013, Council agreed a partial scheme of delegation and introduced roles and remits for the new portfolio holders. Council also considered amended Standing Orders as they related to meetings but decided to continue full adoption of them to this meeting. In the interim, transitional arrangements were agreed to accommodate the extent of the scheme of delegation thus far adopted.

1.2 The purpose of this report is to:

- continue consideration of the Standing Orders relating to meetings (Appendix 1) and the outstanding matters within the Scheme of Delegation to Committees agreed on 24 April 2013 (Appendix 2);
- present the remainder of the Scheme of Delegation to committees and officers (Appendix 3);
- present Contract Standing Orders amended to reflect the new call in provisions for contracts (Appendix 4);
- present Financial Regulations amended to reflect the decision making changes (Appendix 5);
- touch on the work being carried out by the Scrutiny Committee;
- set out a more streamlined approach to dealing with consultation responses.

2. STANDING ORDERS AND SCHEME OF DELEGATION

2.1 Since the last meeting of Council, discussions have taken place between the Leader and the members of the main opposition group, facilitated by the Provost. While not agreeing on all points, a degree of progress was made. The role of Council and of the Executive was considered. With regard to the business of Council and, in particular, the inclusion of motions on the agenda, concern was expressed about the extent of the gate keeping control that lay within the office of the Provost. This was a particular issue when considering motions that would otherwise stand referred to the Executive or the Education Executive. A proposal accordingly emerged that the power given to the Provost to determine exceptions to the general rule on jurisdiction (as set out in paragraph 2.4 of the report to Council in April) would continue to be exercised by him but in consultation with the Leader of the Council and the Leader of the largest

opposition group. Indeed, it was agreed that there were benefits to be gained from these three members meeting together on a regular basis as a standing business group with a view to facilitating the business of Council and working towards a more co-operative approach to the dispatch of business.

2.2 There was discussion also on:

- the length of speeches during debate. There was recognition that, regardless of the length agreed for routine meetings, there would be certain occasions when the Provost would permit lengthier submissions in recognition of the importance of the subject matter e.g. when the annual budget was being set. A self policing approach to limiting the number of speakers on each item (for the purpose of cutting down on repetition) was also considered;
- the Standing Orders formerly known as 18.2 and 18.3;
- the entitlement of the person seconding a motion to reserve their right to speak, if at all, until a later part of the debate. This was generally accepted;
- the advantages and disadvantages of requiring advance notice of amendments. While the rationale behind requiring advance notice was to build in time to establish if agreement between parties could be reached, the requirement continues to cause concern. If it is removed, it is recommended that thought is still given to notice of budget amendments being submitted in advance of the meeting, even if only to the Chief Finance Officer, in order that professional advice on any proposals can be available to Council at the meeting;
- the desire to have agendas and reports issued earlier, wherever possible, with 5 clear days before the meeting being preferred to the current 3 days. This would have a consequential impact on other timescales in Standing Orders, e.g. for questions and motions. These provisions would therefore need to be adjusted to accommodate any change.

2.3 Within their Groups, members may also have been looking at other sections of the Standing Orders. No specific proposals for change have been intimated to officers to date but it is understood that there may be proposals forthcoming at this meeting.

2.4 The opportunity has been taken to review the remainder of the scheme of delegation to committees and to officers.

Committees

2.5 The main changes in this part of the scheme relate to the Planning and Civic Licensing Committees. Delegations to the former have been given a more logical structure so that they are easier to understand. There is one change of substance in this part, however, which flows from the new Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2013. These Regulations come into force on 30 June 2013 from which date the requirement to refer to committee any planning applications in which the Council has an interest will no longer apply. While the obligation to submit these applications to Committee on every occasion disappears, they will still be treated in the same manner as all other applications in that they can be called in by members or will otherwise be referred to committee if they meet any of the criteria to which all applications are subject. Should Council adopt the amended scheme, this part of it would not come into effect until approved by the Scottish Ministers as required for all planning schemes of delegation.

- 2.6 The delegations to Civic Licensing committee have also been adjusted to tidy up some inconsistencies in the current scheme.
- 2.7 For both Planning and Civic Licensing, the delegations to officers that are included as part of the committee section in the current scheme have been moved in their entirety to the officers' scheme where they more properly sit.

Officers

- 2.8 The scheme of delegation to officers continues to be drafted in fairly broad terms with chief officers being authorised to take operational decisions within their functional remit. Certain specific delegations have been added where the Services concerned have advised that it would be of assistance or where current practice would benefit from being formally included in the scheme.
- 2.9 The whole scheme of delegation will remain under review in concert with the decision making structures and will be the subject of future reports.

3. CONTRACT STANDING ORDERS

- 3.1 Contract Standing Orders have been adjusted to accommodate the new procedure whereby those contracts where the contract value is £350k or over recommended for acceptance will be circulated to members of the Executive on a periodical list akin to that used for planning applications. Only if the contract is called in will it require to be submitted to Committee. This process is intended to recognise the prescriptive nature of public sector procurement which limits the options available to members at the acceptance stage while still recognising the important oversight role that members play. The corollary to having a more rigid approach at the conclusion of a tendering exercise, is that members should have a more influential role when contracts are being designed in the first instance. Further reports on this area of procurement will be submitted to future meetings.

4. FINANCIAL REGULATIONS

- 4.1 Financial Regulations have also been reviewed and amended. No changes of substance have been made, with the amendments simply reflecting the changes to the scheme of delegation and to Contract Standing Orders.

5. SCRUTINY COMMITTEE

- 5.1 The Scrutiny Committee has now met on two occasions, on 16 May and 13 June. A workshop to discuss the annual scrutiny plan has also been held and was attended by members from all groups. Discussions have been constructive. It has been suggested that there would be merit in the Committee taking forward one area for scrutiny over the summer recess and this forms part of a separate report on the agenda for this meeting.
- 5.2 At the scrutiny workshop, there was discussion around the annual scrutiny plan and whether it could be perceived as being too rigid. Thought was given to the potential for space being allocated in the annual plan to allow the committee itself to identify and deal

with subject areas that may arise during the year. This would not resurrect the power of call-in and nor could it review decisions recently made but it would enable the Committee to address areas of concern arising urgently or that were unexpected. It is suggested that further thought is given to how this could work with recommendations coming forward together with the annual scrutiny plan.

- 5.3 The role of the Best Value Forum in scrutinising service performance was discussed at the Workshop and at the Committee thereafter. There was general agreement to establishing a standing Scrutiny Panel to take on the role of monitoring performance. Like all Panels, the core membership would be limited to 5 but, mirroring the approach taken at the Forum, other members would be welcome to attend. While not entitled to be core members of the Panel, Portfolio Holders may wish to attend meetings where performance related to their portfolio is being reported.

6. CONSULTATIONS

- 6.1 Council has previously supported a more streamlined approach to dealing with the multiplicity of consultation documents that are received on a regular basis. Although not the only source of requests for input, and provided simply for members' interest, the consultation exercises currently being carried out by the Scottish Government can be found at

<http://register.scotland.gov.uk/weekly-se-consultations/2013/00/13/6091f8d1-9375-4cfb-97c0-a1bd00e6c9e9>

- 6.2 The current procedure for dealing with such consultation documents was established in 1999. The procedure since then has been that consultations are categorised as being either technical (e.g. a consultation on detailed building control standards) or policy based.
- 6.3 Where it is considered that the Council has a material interest in the subject matter of a consultation and can add value to the deliberations on it, responses to technical consultations have been made by the appropriate Service Director while consultations dealing with policy matters have rested with committee. Prior to the recent changes in decision making, the usual route for responses on policy matters was through the relevant scrutiny committee, unless time was of the essence, in which case the report would be referred straight to Policy and Resources Committee. The increasing number of requests for input and the reducing time period for responding to those requests meant that we were often missing the closing date when that date and our committee timetables did not match.
- 6.4 Following discussion at the cross party members' group that met in 2012, it is now proposed that the following procedure is adopted:
- all consultation requests are managed by the Chief Executive Office and a central register is kept;
 - the distinction between technical and policy requests is kept with responses on technical matters remaining with the Service Director;
 - where the request touches on matters of policy, Group Leaders and the relevant Portfolio Holder will be advised of its receipt and the timescale for responding to

it. At the same time, it will be allocated to the relevant Service Director with a deadline for preparation of a draft response. That response will then be shared with the Group Leaders and the Portfolio Holder for consideration. Where there is agreement on the content of the response, it will be issued to the body seeking it. In the event of consensus not being reached, the response will be submitted to the Executive or the Education Executive for formal determination;

- In all cases, details of the submitted response will be retained in the central register.

7. RECOMMENDATIONS

7.1 It is recommended that Council:

- (a) considers the submitted Standing Orders, Scheme of Delegation, Contract Standing Orders and Financial Regulations and determines whether to adopt them with or without further amendment;**
- (b) notes the Scrutiny Committee's proposal to establish a standing Scrutiny Panel on performance to take forward that part of the remit previously carried out by the Best Value Forum with respect to the monitoring of Services' performance; and**
- (c) adopts the procedure set out in paragraph 6.4 for dealing with requests for responses to consultations.**

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Chief Executive

Date: 17 June 2013

LIST OF BACKGROUND PAPERS

Nil