

FALKIRK COUNCIL

Subject: DECISION MAKING STRUCTURES
Meeting: FALKIRK COUNCIL
Date: 31 MARCH 2015
Author: CHIEF EXECUTIVE

1. INTRODUCTION

- 1.1. Following consideration of a report on Decision Making Structures at its meeting on 12 November 2014, Council agreed to establish a working group of members to undertake a formal review.
- 1.2. Membership of the Working Group comprised 3 members from the Administration (Baillie Paterson and Councillors Martin and Nicol) and 3 from the Opposition (Councillors Meiklejohn, Carleschi and Spears) together with the Provost. Substitutes were permitted.
- 1.3. The purpose of this report is to bring to Council the thoughts of the working group and to establish if any changes to the decision making structures will follow.

2. WORKING GROUP

- 2.1. The working group first met on 17 December 2014 and agreed a work programme to extend over a further 4 meetings; the first meeting considering the role of the Executive and Council, the second considering the role of Scrutiny, the third looking at standing orders and alternative options and the fourth meeting concentrating on conclusions. During the course of these meetings, a fifth meeting was agreed by the group in order to get through the business.
- 2.2. While the working group did not reach agreed conclusions, there was useful discussion at the meetings on a variety of topics and an opportunity for members to contribute their views. Copies of the minutes from each of the meetings are attached to this report.
- 2.3. In addition to looking at how the current system works, both the SNP and Non Aligned Independent Groups submitted proposals for change. These were discussed at meetings in January and February, with the Administration's views being submitted at the meeting on 19 March 2015. All 3 proposals are attached to this report.
- 2.4. Should any changes be agreed to the decision making structure that necessitate a change to the scheme of delegation, those changes will be the subject of a further report to Council.
- 2.5. Although the provisions of Standing Orders were touched upon at working group meetings, it was acknowledged that they could be more meaningfully addressed following any conclusions being reached on the decision making structures themselves.

3. RECOMMENDATION

- 3.1 Council is invited to consider the matters raised through the decision making working group and to determine whether any changes to the current decision making structures should be made.**

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CHIEF EXECUTIVE

Date: 23 March 2015

LIST OF BACKGROUND PAPERS

Nil

FALKIRK COUNCIL

MINUTE of MEETING of the DECISION MAKING STRUCTURES WORKING GROUP held within the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 17 DECEMBER 2014 at 2.30 pm.

PRESENT:

Steven Carleschi
Craig Martin
Cecil Meiklejohn
Malcolm Nicol
Baillie Joan Paterson
Provost Pat Reid (chair)
Robert Spears

OFFICERS:

Rose Mary Glackin, Chief Governance Officer
Colin Moodie, Depute Chief Governance Officer
Brian Pirie, Democratic Services Manager
Mary Pitcaithly, Chief Executive

1. Decision Making Structures Working Group

Council established the decision making working group on 12 November 2014 (ref FC48). Its role is to 'undertake a formal review of the decision making structures'.

This was the first meeting of the group.

The group considered its role and had before it, for reference, the report by the Chief Executive, on the operation of the decision making structure, which had been considered by Council on 12 November.

Members discussed the purpose of the review and, in particular:-

- whether the review should focus on the current decision making structure with a view to bridging any areas of difference, noting that earlier discussions between the Leader and the Leader of the Opposition had identified adjustments to the present structure to facilitate participation of the SNP. The substantive adjustments had been agreed by both of the main groups but no ultimate conclusion had been reached;
- whether the group should undertake a root and branch review of the model, looking at all options and alternative structures;
- whether the options for review set out above were mutually exclusive or whether there was an opportunity to undertake each in sequence.

The group also discussed:

- the current best value review of the Council by Audit Scotland;
- the views of the SNP group in regard to scrutiny and members' role in decision making;
- alternative models of scrutiny adopted by other Scottish Local Authorities;
- the difficulty in assessing the effectiveness of the current model given the position of the Opposition in regard to participation; and
- the timescales for the review.

The group concluded that in terms of the format of the review, in the first instance:

- it would focus on the role of Council/Executive/scrutiny/policy development panels and Scrutiny panels;
- any changes to the model would necessitate a review of Standing Orders in general and of the Scheme of Delegation in particular; and
- groups would submit proposals/views to the Chief Governance Officer following the meeting.

The group agreed the following workplan:-

- 6 January 2015- the role of Council/Executive;
- 13 January 2015 – Scrutiny;
- 29 January 2015 – Standing Orders; and
- 3 February 2015 (TBC) – Conclusions.

FALKIRK COUNCIL

MINUTE of MEETING of the DECISION MAKING STRUCTURES WORKING GROUP held within the MUNICIPAL BUILDINGS, FALKIRK on TUESDAY 6 JANUARY 2015 at 2.00 pm.

PRESENT:

Steven Carleschi
Craig Martin
Cecil Meiklejohn
Malcolm Nicol
Baillie Joan Paterson
Provost Pat Reid (chair)
Robert Spears

OFFICERS:

Rose Mary Glackin, Chief Governance Officer
Colin Moodie, Depute Chief Governance Officer
Brian Pirie, Democratic Services Manager
Mary Pitcaithly, Chief Executive

1. Note of Previous Meeting

The note of the previous meeting, held on 17 December was approved, subject the following amendments.

(i) The group discussion to include:—

- The potential for alternative options

(ii) The workplan to read:-

- 6 January 2015 – *the role of Council / Executive;*
- 13 January 2015 – *Scrutiny;*
- 29 January 2015 – *Standing Orders and the potential for alternative options ;* and
- 3 February 2015 (tbc) - *conclusion*

2. Review

There was some discussion on whether the review should focus on bridging any areas of difference between the main groups with a view to achieving participation. The SNP group representatives stated that the review was wider and should proceed as agreed at the first meeting.

3. The role of the Council / Executive

The group had previously agreed to discuss the role of the Council within the current decision making structure and the operation of the Executive. Two issues were then considered.

The group considered first the questions to portfolio holders. The second issue was, at the suggestion of the SNP group, the ability of opposition members to introduce items of business on Council agendas under the new model.

In regard to questions the following points were made:

- the introduction of questions to portfolio holders was generally welcomed;
- representatives of the Administration held the view that a number of questions put to portfolio holders were on points of fact and the information should have been obtained from officers;
- questions put must relate to items discussed by the Executive. It was suggested by the SNP group representatives that the scope should be broadened to include other areas within a portfolio holder's brief;
- it was suggested that the provision within Standing Orders for the submission of questions does not permit questions to be asked on current issues;
- under the previous model, questions were submitted to the Provost in advance of Council meetings. This, the SNP group representatives felt allowed the opposition to ask questions on items on the agenda. It was clarified that there was an opportunity to do so under current Standing Orders. There was some support for questions to be broadened to include questions to the Provost on civic matters; and
- the group acknowledged that the majority of those questions submitted to portfolio holders were answered at the meeting. However of those which required follow up, some members of the opposition held the view that not all were responded to or were not responded to within the deadline set out in Standing Orders. The group acknowledged that there was no process in place to circulate any follow up responses to all members or to make them available to the public within Council papers or online. There was support for the suggestion that these could be collated and published in the Information Bulletin.

Following discussion, the group asked for options on extending the questions process to be prepared for the next meeting.

The group then considered the relationship between Council and the Executive under the new model – in particular a suggestion by the SNP group representatives of the introduction of opposition time at Council meetings.

The following points were made:-

- there was general agreement that the Executive should continue to operate and no substantive options for change were raised;
- it was the view of the opposition groups that all members should have the ability to have any item of business raised and discussed at Council and that

there were clear advantages in doing so, for example the contribution of local members on issues;

- there was recognition that under the current model a substantial proportion of decision making rests with the Executive. The SNP group representatives suggested that there should be an exception to the exclusive jurisdiction to allow the opposition to identify certain items of business for Council but acknowledged that this should be within defined parameters;
- an ‘opposition slot’ on the Council agenda in which issues could be raised and discussed at Council, would enable opposition members to influence the Council agenda;
- other members felt that the present system adequately allowed issues raised by members, to be dealt with by referral, and that it was premature to evaluate the current model without it having operated with the full engagement of opposition members either by attendance or by allowing motions which stood referred to the Executive to be dealt with.

The group asked the Chief Executive to report back on how an ‘opposition slot’ might work.

The group confirmed that it would consider scrutiny at its next meeting together with the papers flowing from the meeting.

Councillor Meiklejohn stated that she considered that the main role of the opposition was in scrutiny. Her group considered that it wished to look at pre-scrutiny of reports and the potential to establish scrutiny committees covering service areas.

Councillor Spears indicated that his group’s views would be laid out at the third meeting at which alternatives were to be discussed.

FALKIRK COUNCIL

MINUTE of MEETING of the DECISION MAKING STRUCTURES WORKING GROUP held within the MUNICIPAL BUILDINGS, FALKIRK on THURSDAY 22 JANUARY 2015 at 2.30 pm.

PRESENT:

Steven Carleschi
Craig Martin
Cecil Meiklejohn
Baillie Joan Paterson
Provost Pat Reid (chair)
Robert Spears

OFFICERS:

Rose Mary Glackin, Chief Governance Officer
Colin Moodie, Depute Chief Governance Officer
Brian Pirie, Democratic Services Manager
Mary Pitcaithly, Chief Executive

1. Apology

An apology was intimated on behalf of Councillor Nicol.

2. Opening

Provost Reid apologised for the postponement of the meeting scheduled for 13 January. Today's meeting was in place of this meeting and was in addition to the agreed schedule.

3. Note of Previous Meeting

The note of the meeting held on 6 January 2015 was agreed subject to the amendment of the final sentence to read:-

“Councillor Spears indicated that the views of the Non Aligned Independent Group would be laid out...”

4. Matters Arising – Follow-up from previous meeting

Councillor Meiklejohn confirmed that the SNP group was developing its views on the current decision making system including proposals for a way forward. She anticipated that this could, subject to group approval, be circulated after Monday 26 January, to the working group. Councillor Spears suggested that it would be helpful if each group could circulate its proposals prior to the next meeting of the working group.

The working group, at its previous meeting, asked officers to develop options on how an Opposition slot at Council might work and on how questions could be extended.

Opposition Slot

The group first considered a paper in regard to the suggested Opposition slot. The paper, attached as appendix 1, set out a possible process for consideration. The Chief Executive stated the paper should not be read as a recommendation.

The working group discussed the paper and sought clarification on:-

- the management of the Opposition slot;
- the suggested role of the Leader of the Opposition in certifying items for inclusion in Council Business; and
- the role of shadow portfolio holders

The suggestion, made at the previous meeting, that the slot could allow two motions, with a time limit of 1 hour, to be placed on an agenda for an ordinary meeting of Council was discussed. Differing views were expressed on the opportunity for members to raise local constituency business as part of the slot.

Each of the group leaders present undertook to take the paper to their respective groups for further discussion.

Questions

The group then considered a second paper, attached, which set out options for broadening the remit of questions which may be asked and clarifying the nature of these questions.

Following an overview of the options from the Depute Chief Governance Officer the following points were made by members:-

- the current provision prevented questions to be put in regard to urgent matters;
- questions to the portfolio holders should be focussed on their strategic and political remit;
- there was no suggestion that the time allowed for questions should be extended beyond 1 hour; and
- there should be an opportunity to put questions to the convener of the Scrutiny Committee.

The group leaders present agreed to discuss the paper with their respective groups.

5. Scrutiny

The group first considered the membership of the current scrutiny committee, which is 6 members of the Administration and 4 members of the Opposition and is currently chaired by the Provost.

Councillor Martin stated that the Administration had previously agreed to a 5:5 membership with the chair being a member of the Opposition.

Councillor Meiklejohn had previously suggested the introduction of a number of scrutiny committees looking at service areas. The group discussed how this might work. The Provost noted that 9 places were reserved on the Executive for Administration members, leaving 8 members available to participate on scrutiny committees. Baillie Paterson highlighted the current workload of elected members and questioned the impact of an additional committee. Councillor Meiklejohn suggested that any new committees need not comprise 10 members but re-iterated that all members should be involved in decision making.

The group discussed the current workload and meeting cycle of the scrutiny committee.

Baillie Paterson stated that the work of the panels thus far demonstrated that that scrutiny was being carried out.

The group then considered the scrutiny plan. Councillor Meiklejohn stated that, in the view of her group, the Opposition does not have the ability to influence the plan.

There was a general support for the scrutiny of service performance as undertaken by the performance panel.

The Provost stated that it would be difficult to secure agreement on 'pre scrutiny' of items (this having been raised by Councillor Meiklejohn at the previous meeting).

**DECISION MAKING WORKING GROUP 22/01/15
FOR DISCUSSION**

The following is a draft of a new section of the Standing Orders which could give effect to suggestion of an opposition “slot” at Council.

New section 47A

- (1) The Council may decide any matter referred to it by the Executive or the Education Executive. **[This is already in the reservation to Council but is placed here for drafting reasons.]**
- (2) At each ordinary meeting, the Council may take a decision on any matter notwithstanding the terms of paragraph 48.2 (*Powers of the Executive*) where the decision is taken pursuant to an item of business which consists of opposition business.
- (3) Opposition business shall consist of motions of which notice have been given under Standing Order 29 (*Motions – General*), which have been certified by the Leader of the Opposition as constituting such business. The number of such motions shall be limited to [X] in number. [limitation as to time for debate or ordinary rules of debate?]
- (4) Standing Orders 29, 30 (*Motions – Budgets*) and 35 (*Revocation of Previous Decisions*) shall apply to opposition business as to all other business considered by Council.
- (5) Standing Order 31 (*Motions that Stand Referred*) will not apply to opposition business.

Consequential amendment of Standing Order 14 (*Order of Business*) required.

For consideration – if the item needs consideration at a subsequent meeting arising directly from decision does it remain opposition business or revert to being dealt with through the normal structure.

DECISION MAKING WORKING GROUP 22/01/15 FOR DISCUSSION

Question at Council

Questions – Standing Order 32

At present questions must be on *any matter relating to business transacted* at a meeting of the Executive which has taken place since the last Council meeting.

The issues raised at the Working Group centred, on the one hand, on extending this beyond the items of business at the Executive and, on the other hand, to specifying more clearly that the intention of questions to portfolio holders was to engage their policy and political role not to ask about operational issues which could be dealt with by officers.

Options for Broadening the Remit

1. Any item relevant to the remit of the portfolio holder and where there has been a relevant item covered within the minute volume.
2. As 1 but including relevant discussions at PDPs and Scrutiny Panels.
3. Any matter relating to the remit of a portfolio holder.
4. Include questions to the Provost on his remit ie the civic role.

Clarification of the questions that can be put

Options for Clarifying the Questions

1. Extend 32.6 to give it effect to disallow a question rather than affect the order in which it called.
2. Alternatively (or in addition) include a provision requiring the question to relate to the role of the portfolio holder in the schedule to the Standing Orders ie to the role in exercising strategic and political leadership, policy development etc.

FALKIRK COUNCIL

MINUTE of MEETING of the DECISION MAKING STRUCTURES WORKING GROUP held within the MUNICIPAL BUILDINGS, FALKIRK on THURSDAY 29 JANUARY 2015 at 2.30 p.m.

PRESENT:

Steven Carleschi
Cecil Meiklejohn
Brian McCabe (substituting for Councillor Spears)
Malcolm Nicol
Baillie Joan Paterson
Provost Pat Reid (chair)

OFFICERS:

Rose Mary Glackin, Chief Governance Officer
Colin Moodie, Depute Chief Governance Officer
Brian Pirie, Democratic Services Manager
Mary Pitcaithly, Chief Executive

1. Apologies

Apologies were intimated on behalf of Councillors Martin and Spears.

2. Note of Previous Meeting

The note of the meeting held on 22 January 2015 was agreed.

3. Matters Arising – Follow-up from previous meeting

With reference to the discussion at the last meeting on the scrutiny committee a note was circulated setting out the scope for flexibility in setting scrutiny committee agendas.

Councillor Meiklejohn had confirmed, at the last meeting, that the SNP group was developing its proposals in regard to the decision making structure. These were subsequently circulated to all members of the working group on 28 January. The Provost confirmed that they would be discussed at this meeting.

4. Standing Orders

The working group had agreed, at its first meeting, that this meeting would focus on Standing Orders and alternative decision making structure proposals by the Independent Group.

Having considered thus far the role of Council and the Executive, the group now agreed to look at the alternative options, which were to be presented by the Independent Group, and the proposals by SNP group. Any changes to Standing Orders would be considered when all proposals had been considered.

5. **Alternative Options**

Independent Group

Councillor McCabe circulated a paper entitled Decision Making Structures Workable Alternative together with two supporting documents (an overview of local government in Scotland by Audit Scotland, 2013 and an extract of a report by the McNish panel from 2001)

Councillor McCabe then summarised his group's proposal which was that all business (excluding regulatory business) would be dealt with by Council in a series of meetings held over 3 days per cycle. Councillor McCabe drew reference to the Audit Scotland report and findings which his group considered supported its proposals.

In support of the proposal, Councillor McCabe stated that it was his group's position that:-

- All decisions should be made in public and subject to full debate by all members.
- All members should be able to scrutinise the leadership.

The group then discussed the proposals. The following points were made:-

- Councillor McCabe stated that Council business could be dealt with by 2-3 day Council meetings every 8 weeks.
- Baillie Paterson questioned the proposed abolition of the policy development panels and scrutiny panels and stated that their strength was in having a small group looking in detail into an issue. In her experience the ability to do so at their own pace was advantageous.
- Baillie Paterson also raised the scrutiny of external organisations, undertaken by the scrutiny committee and suggested that Council was not the best arena to undertake such scrutiny given the intransigence, at times, from members of both sides on that forum.
- Councillor Meiklejohn suggested that, in practice, a 3 day Council meeting, as proposed, would be difficult in terms of workload and the impact on elected members. She also suggested that Audit Scotland had criticised another authority where all business was dealt with by Council.
- The Chief Executive confirmed that a similar model had been in place in Clackmannanshire Council due to unique circumstances.
- In such circumstances where all decisions are taken by Council there was a lack of clarity between decision making and scrutiny of decisions taken.
- The Provost stated that, in his experience, it had never been the case in this authority that all business would be dealt with by Council – in any model he could recall some matters were reserved to Council and others delegated to committees and that in no case had all members been on all committees.

- The Provost highlighted that, should each member wish to speak on every item of business then meetings would be lengthy and unworkable. Councillor Meiklejohn added that, as well as a large amount of business to manage, Council would also have motions to consider which would increase the length of any agenda. This which would bring the use of the guillotine into contention.
- Councillor McCabe reiterated in his group's view, the current model had neutered Council and diminished scrutiny.
- In regard to the membership of committees, Councillor Meiklejohn said her group wouldn't rule out the option for rotating membership and appointments should utilise members' skills, expertise, experience and allow for individual commitments.

Provost Reid confirmed that the proposals would be considered by his group and wouldn't be automatically dismissed. The group would however look at the practicality of the proposals.

SNP Group

The group then considered the proposals circulated by the SNP group.

The paper set out proposals in regard to the Executive, Scrutiny, Council and Standing Orders.

Councillor Meiklejohn, first summarised the options set out in regard to the **Executive**. These were:-

- a) The main scrutiny committee considering the items on the Executive agenda ahead of the Executive as happens with a real cabinet structure.
- b) Cutting the number of portfolio holders and including the appropriate number of shadow portfolio holders to give proportionality within the Executive.
- c) Having a cabinet of Administration members only with appropriate scrutiny opportunities to hold the cabinet to account.

The group discussed each option. The following points were made:-

- The Provost noted that the first option was unlikely to be agreed by the group.
- Councillor Meiklejohn confirmed that the third option was based on a true cabinet model, with scrutiny taking place post decision. The scrutiny body would be for opposition members only - although it would work provided the opposition was in majority and held the chair.
- Councillor Meiklejohn stated that scrutiny would be more 'testing' if the opposition controlled the scrutiny agenda.

- In regard to membership the Chief Executive noted that the proposals would not permit all members to be involved in decision making. Councillor Meiklejohn responded that the number of scrutiny committees was not set within the proposal and there could be more than one committee.

The group then considered the proposals in regard to **scrutiny**. These were:-

1. Give the scrutiny committee(s) teeth by giving the opposition the chair of all scrutiny committees and majority membership.
2. Allow the scrutiny committees to have control of their own agendas.
3. Have sufficient number of scrutiny committees to allow all members to participate.
4. Compel the portfolio holders to attend the relevant sections of the Scrutiny Committees to answer questions.

Councillor Meiklejohn summarised the options. The following points were made:-

- There was general support for the proposal that portfolio holders can be available to answer questions by the Scrutiny Committee.
- Councillor Meiklejohn confirmed that the option in regard to the membership of the scrutiny committee did not include the 5:5 split option. A majority of opposition members was proposed.

Councillor Meiklejohn then set out the options set out in regard to **Council**. These were:-

- (1) Restoring an unrestricted right for members to raise issues at full Council by way of notices of motion. This could be managed by allowing all members of the Council the right to bring two written notices of motion to the Council per year with opposition shadow portfolio holders having the same right to bring a further 2 notices of motion per year to Council on their portfolio.
- (2) Restore the right to bring reports from committee to Council. If this was considered too radical by the Administration then this could be managed by restricting the time at full Council to, perhaps, one hour with the opposition responsible for managing that hour.
- (3) Re balancing of the catch all clauses in the Standing Orders that give the Provost absolute power.
- (4) Restore the written questions to the Provost.

The group then discussed the options with the following points being made:-

- The Chief Executive noted that the proposal in regard to motions could result in 82 motions, over 5 ordinary meetings of Council. However Councillor Meiklejohn clarified the option and explained that this would be a right to submit motions to the member's group which could be managed within the Oppositions slot, as previously discussed.
- In regard to the management of Opposition time the Chief Executive stated that internal group discussions would not be a matter for Standing Orders.
- The Depute Chief Governance Officer confirmed that the 6 month rule would apply to the Opposition slot.
- The group discussed the practical operation of the Opposition slot further and whether to limit by number and/or time. No conclusion was reached.

The group then considered the proposal in regard to **Standing Orders**. This was:

A review of Standing Orders will be required to accommodate any changes in the decision making structure but should also seek to ensure that they are enabling to facilitate open, transparent and constructive debate.

The group then discussed the current Standing Orders. The following points were made:-

- Councillor Meiklejohn considered that the rationale for which motion can be discussed at Council and which stand referred was unclear.
- She also considered that the new Standing Orders gave too much power to the role of Provost. The DCGO confirmed that in regard to the powers of the Provost, the new Standing Orders consolidated powers which were already in place. New powers were included as a consequence of the introduction of questions. The CGO also highlighted that in regard to the Provost's powers and duties, Standing Orders were a reiteration of the Code of Conduct.
- In regard to questions, the provision to allow the Provost to determine the order was intended to ensure fairness. Councillor Carleschi said that issues in regard to order and relevance could be clarified through discussion in advance of the Council meeting.
- Councillor Meiklejohn, in response to a question from the Provost, confirmed that the Opposition slot would be in addition to the slot for questions both time limited.
- Councillor Meiklejohn stated that the current model did not allow members to seek feedback on decisions taken previously. The CGO confirmed that members could seek answers on any factual matter.

In regard to Standing Orders relating to meetings Councillor Meiklejohn indicated that her group would bring forward proposals. She reiterated that the paper provided was intended to stimulate debate. Councillor McCabe confirmed that in regard to the SNP groups proposals he had nothing to add.

Having discussed the proposals contained in the paper the Chief Executive summarised the working group's position as follows:-

- On pre Scrutiny – there had not been general support expressed for this proposal.
- On a politically balanced Executive – there had not been general support expressed for this proposal.
- On cabinet/scrutiny model – There was majority support. Councillor Meiklejohn had indicated a preference for an all opposition scrutiny committee to balance an all Administration Executive but was open to discussion subject to agreement on the balance of members on the scrutiny committee or committees (potentially split by people or place). There was general agreement that the chair of the scrutiny committee(s) should be held by the Opposition
- A further option, the inclusion of a public protection committee was raised
- The position in regard to the suggested Opposition slot at Council was now clearer.

FALKIRK COUNCIL

MINUTE of MEETING of the DECISION MAKING STRUCTURES WORKING GROUP held within the MUNICIPAL BUILDINGS, FALKIRK on TUESDAY 3 MARCH 2015 at 2.30 p.m.

PRESENT:

Steven Carleschi
Craig Martin
Cecil Meiklejohn
Malcolm Nicol
Baillie Joan Paterson
Provost Pat Reid (chair)
Robert Spears

OFFICERS:

Rose Mary Glackin, Chief Governance Officer
Colin Moodie, Depute Chief Governance Officer
Brian Pirie, Democratic Services Manager
Mary Pitcaithly, Chief Executive

1. Apologies

No apologies were intimated.

2. Opening Remarks

The Provost apologised for rescheduling the meeting of 25 February. This had been due to illness and thanked members for agreeing to meet today.

3. Note of Previous Meeting

The note of the meeting held on 29 January 2015 was agreed.

4. Matters Arising – Follow-up from previous meeting

The working group discussed the next stage in its deliberations. Submissions had previously been received from the SNP Group and the Independent Group. The Provost confirmed the Labour Group would consider these at its next meeting on 9 March 2015 and would respond before the next meeting.

The Provost stated that in his view the position of the Independent Group was clear. However he asked a number of questions in regard to the SNP Group's proposals, these were:-

- **Membership of the proposed Scrutiny Committee(s).** Provost Reid asked if the SNP position that all members should be able to participate in scrutiny

referred to the committee(s) or whether this included participation on policy development and scrutiny panels. Councillor Meiklejohn stated that it did include panels and stressed that the size and makeup of the committee(s) was open for discussion;

- **Scrutiny Committee/portfolio holder relationship.** The Provost asked whether the proposal that the committee could compel a portfolio holder to attend a meeting could be clarified. Councillor Meiklejohn confirmed that the intention would be that portfolio holder attendance would be explicit within the role of the portfolio holder. However there would be no compulsion to attend;
- **Role of the Provost at meetings.** The SNP Group had stated that the current Standing Orders give the Provost “absolute power”. Provost Reid asked if this could be clarified. In his view his powers were largely unchanged, save those introduced in regard to questions and motions. Councillor Meiklejohn suggested that this could be looked at once the position in regard to structures was settled. However she suggested that Standing Orders appeared to limit rather than facilitate debate. Provost Reid agreed that any discussions on Standing Orders should follow the consideration of the structures;
- **Control of the scrutiny agenda.** The Provost noted that the scrutiny plan is set by Council. However the committee is in control of its agenda. Currently he said there is a place on the scrutiny plan for a proposal by the Opposition. Councillor Spears suggested that there is a role for the convener of the Scrutiny Committee in determining the scrutiny agenda. Councillor Meiklejohn concurred;
- **Participation of members of the opposition on Scrutiny Committee(s).** Baillie Paterson sought assurance that members of the Opposition would participate in the Executive/Scrutiny Committee(s) if a revised structure was agreed. Councillor Meiklejohn said that her members fully participated on all committees except the Executive and Scrutiny Committee. Councillor Spears stated that participation would not be an issue for his group. Councillor Meiklejohn gave her commitment, as group leader, that her members would attend;
- **Questions to Portfolio Holders.** Provost Reid summarised the current proposal, as he understood it, that those questions relating to operational matters should disappear but relevant questions to portfolio holders could be wider ranging. The Deputy Chief Governance Officer confirmed that Standing Orders could be framed to allow the Provost to determine if questions are relevant. The Provost concurred; and
- **Questions to the Provost** – Provost Reid indicated that he saw no difficulty in introducing questions in regard to his civic duties.

The Provost thanked members for their clarification. He suggested that it would be helpful if he set out those areas which he saw as “no go”. These were:-

- Pre scrutiny (of Executive items);
- An Administration only cabinet;
- Call-ins from Committees to Council

Councillor Meiklejohn thanked the Provost for his summary. The proposals from the SNP group were, she said, not a wish list but provided options for consideration.

Councillor Spears stated his disappointment that no proposals had been brought forward from the Administration thus far and, in his view, this meant that the Labour Group position was for the status quo. Provost Reid stated that the current structure was the Administration’s position at the present time but it would now consider the proposals brought forward by the SNP and Independent Groups and respond.

The Provost concluded by confirming that the working group was due to report to Council in March, most likely at a special meeting on 31 March. It was agreed that the working group would meet again to finalise its recommendations to Council.

SNP Group Structures Issues

The SNP has proposed over the last few years the changes we believed were the bottom line changes required to take us to a position where we could participate fully in all areas of the decision making structures with in Falkirk Council, where we were permitted, **ahead of a full review**.

It should be noted that the SNP group has participated constructively in all aspects and attended all other meetings with the exception of the Executive and Scrutiny Committee.

The Administration chose at several council meetings to reject our proposals and instead pushed the full review option which we accepted and have participated fully in that review process.

Objectives

- To deliver decision making structures that are open, accountable and transparent.
- To ensure all members are fully engaged in decision making and the scrutiny process.
- To ensure the scrutiny process is as wide as possible.
- To restore the role of the full council.

The current structure.

1. Fail to deliver any of the above.
2. Fail to provide all members with equal access to decision making.
3. Is neither cabinet or committee
4. Fails to properly challenge portfolio holders

Options for Changes

The Executive

The Executive has operated as the old Policy & Resources Committee but with a political imbalance. Clearly this means reports are approved or amended / rejected before the Executive actually meets. The presence of a small number of opposition members is therefore seen as a token gesture, no more.

This could be resolved by a number of changes, the most important of which is pre-executive scrutiny. There are a number of options for this examples of which could be:

- The main scrutiny committee considering the items on The Executive Agenda ahead of the Executive as happens with a real cabinet structure.
- Cutting the number of portfolio holders and including the appropriate number of shadow portfolio holders to give proportionality within the Executive.
- Having a cabinet of Administration members only with appropriate scrutiny opportunities to hold the cabinet to account.

Scrutiny

- Give the Scrutiny Committee / Committees teeth by giving the opposition the chair of all scrutiny committees and majority membership.
- Allow the Scrutiny Committees to have control of their own agendas.
- Have sufficient number of Scrutiny Committees to allow all members to participate.
- Compel the portfolio holders to attend the relevant sections of the Scrutiny Committees to answer questions.

Full Council

Restore the status of, as the ultimate decision making accountable body and access to full council meetings for members. Options could be,

- Restoring an unrestricted right for members to raise issues at full council by way of notices of motion. This could be managed by allowing all members of the council the right to bring two written notices of motion to the council per year with opposition shadow portfolio holders having the same right to bring a further 2 notices of motion per year to council on their portfolio.
- Restore the right to bring reports from committee to council. If this was considered too radical by the Administration then this could be managed by restricting the time at full council to, perhaps, one hour with the opposition responsible for managing that hour.

- Re balancing of the catch all clauses in the Standing Orders that give the Provost absolute power.
- Restore the written questions to the Provost.

Standing Orders

While it is recognised that there is a need for a structure to manage the way the business of the council is conducted, the current standing orders are not enabling to debate.

A review of standing orders will be required to accommodate any changes in the decision making structure but should also seek to ensure that they are enabling to facilitate open, transparent and constructive debate.

Conclusion

As a group we remain willing to participate within discussions providing they are constructive and meaningful with a commitment to reaching a resolution.

Non-Aligned Independent Group Decision Making Structures Workable Alternative

28th January 2015

The Non-Aligned Independent Group (NAIG) of Councillors has never been convinced of the need, necessity, or efficacy of the Decision Making Structures currently imposed by the existing Administration.

Despite these reservations, it should be noted that the NAIG have engaged in both the Executive and Scrutiny (albeit briefly) processes.

The ongoing disquiet of the NAIG regarding the Executive model has been made known and dismissed by the Administration over the intervening 22 months. It should be remembered that it was suggested a 'review' of the Structures be carried out following 12-18 months of operation. That didn't happen.

NAIG Objectives

Falkirk Council structures circa: February 2013 operated quite successfully with no need for alteration or amendment, other than a desire by the two main parties to change for political influence at the expense of inclusivity and local democracy.

NAIG would like to see a return to a similar model which, incidentally, was described as delivering "... *clear and transparent cross-party leadership in terms of deciding on its strategic direction, balanced by effective cross-party scrutiny from members ...*" by the Leadership Advisory Panel to the Scottish Government.

NAIG would like to see a return to this objective; it's as simple as that.

Council Objectives

It **should** be the aim of the Council to:

- manage Council business in such a way that Policy proposals and other matters for **decision** by the Council are subject to **full debate and scrutiny by ALL members**.
- allow **ALL** elected members to scrutinise the actions of the Leadership (and Executive), and to hold it to account.
- ensure the work of the Council takes place in public, as far as possible.

Falkirk Council presently fails to meet any of these objectives.

NAIG Aims

The erosion of the role of the elected local member from influencing business, to do with the Ward they have been elected to represent, is an attack on the democratic process.

The Electorate are entitled to have their views and aspirations heard in Full Council. This is being denied them by the structures presently in place.

The aims of NAIG basically reflect those of the SNP Group in Council, namely:

- decision making structures that are open, accountable and transparent.
- allow **ALL** local members access to decision making and scrutiny processes.
- ensure accountability of portfolio holders.
- restore the role & function of Full Council.

Full Council has been effectively neutered and is merely used as a 'rubber stamping' exercise for decisions taken by the Executive, with no accountability or scrutiny.

Reasons for Change

The Executive

The Executive Committee operates fundamentally as a politically imbalanced decision making function; effectively policy decisions are taken beforehand at the Labour Group's weekly meeting and simply given 'public airing'. Any voting is hindered by the political imbalance (9 Administration, incl. Chair, versus 3 Opposition) of the committee. It is severely flawed with Opposition attendance merely tokenistic.

Scrutiny

The Scrutiny Committee currently operates independently of the Opposition. This situation has been brought about by the intransigence of the Administration in refusing to recognise the lack of genuine scrutiny. All members of the Opposition have held this view from the outset. They have persistently expressed their thoughts, and proposed potential solutions, on the lack of scrutiny; all to no avail. This is unacceptable.

The existing structures are unsustainable.

They are undemocratic; inefficient; cumbersome; problematic (for Members and Officers alike); lack value; and are damaging in the eyes of the general public.

Since their introduction we have experienced numerous instances of less efficient work practices in comparison with the old structures, eg:

Full Council	March '14	Agenda Item – to follow
Scrutiny Committee	May '14	Supplementary Agenda Item
Full Council	June '14	Questions – to follow
Full Council	Oct '14	Supplementary Agenda Item added
Special Full Council	Nov '14	
Full Council	Dec '14	Agenda Item – to follow
Special Full Council	Jan '15	
Structures Working Group	Jan '15	Cancelled
Electoral Reg Seminar	Jan '15	Cancelled
Structures Working Group	Jan '15	Re-organised
Special Executive	Feb '15	

These are only some of the unfortunate events which impact on the efficiency of Council business and the diaries of all elected members.

Proposals for Change

New Structures

The NAIG propose the setting up of a 3 Day Full Council.

Day 1:

The conducting of all Council business related to Policy. This will allow the full participation of **ALL** elected members in the business of Council pertaining to their own constituents.

Day 2:

The conducting of all Council business related to external organisations, including Community Trust.

The conducting of all Council business related to the performance of Council services & departments.

Day 3:

The conclusion of any Council business not covered; or additional to the above.

Observations

The NAIG proposals noted above preclude the need for a separate level of scrutiny; All elected members are included within these proposals. Scrutiny therefore becomes an ongoing process, an inherent part of council business, completely transparent and only what the general public expect of its elected officials.

Portfolio holders currently don't convene any meetings relevant to their area of responsibility. It is difficult to justify the payment of Special Responsibility Allowances for these posts.

Full Council

The dilution of Full Council in Falkirk is disappointing. As the statutory body constituted through various Local Government (Scotland) Acts since 1929, the status of this decision making, accountable body must be restored. The proposals of the NAIG members would go some way to redress this.

We look forward to meaningful and constructive dialogue to overcome the impasse of the past 22 months.

Cllr Robert Spears
Chairman, NAIG

Cllr Brian W. McCabe,
Secretary NAIG

Appendix

App 1 Leadership Advisory Panel Paper

App 1 CIPFA Guidance Note for Scottish Authorities

Response by the Administration to SNP and Non Aligned Independent Groups' Proposals

The Administration has considered the proposals put forward and the various discussions which have taken place at the recent series of meetings.

The following proposals are put forward for further consideration at the meeting on 19 March and recommendation to the Council on 31 March:-

That Question Time should include questions to the Provost on civic and related matters

That Questions that should more properly be dealt with by Officers should not be included on the agenda

That there should be a comprehensive review of Standing Orders, including a review of powers reserved to the Provost, following a period of full involvement of the Opposition so as to allow a proper evaluation

That there should be 2 Scrutiny Committees of 8 persons - 4 from the Administration and 4 from the Opposition with both chaired by a member of the majority Opposition group. One group could scrutinise external organisations (Police, Fire, Trust and following the public pound) with the other looking at internal service issues. Given the involvement of more members and taking into account recent issues e.g. Police, there would appear to be a case to revert to more regular meetings.

The proposal by the NAIG group that all business, other than regulatory business, be transacted by a 2or 3 day Council meeting was rejected as impracticable given the timescales for many decisions , the difficulties posed for those members who have full-time employment and other reasons.

The proposal by the SNP Group that Questions should be extended beyond matters from the Executive was rejected with portfolio holders indicating that there was ample opportunity for questions to be put to them in writing or verbally throughout the cycle and at the Executive or Scrutiny Committee meetings, as appropriate.

The SNP proposal that there be provision for, say, 2 motions from the Opposition heard at each Council meeting was also rejected given that Standing Orders allowed motions from the Opposition to be put to the Executive with access thereafter to the Council in the form of questions. -all in addition to those motions which met the criteria for consideration at Council.

Further explanation can be provided at the meeting .