

FALKIRK COUNCIL

**Subject: ARRANGEMENTS FOR CARRYING OUT COUNCIL FUNCTIONS
FROM MARCH TO MAY 2012**
Meeting: FALKIRK COUNCIL
Date: 14 MARCH 2012
Author: CHIEF GOVERNANCE OFFICER

1. PURPOSE OF REPORT

1. The purpose of this report is to propose arrangements to allow Council to carry out its functions from the conclusion of today's meeting until the statutory meeting of the new Council in May 2012. The report also highlights certain issues for consideration in advance of the statutory meeting and for decision post election.

2. DECISION MAKING

- 2.1 The local government elections will be held on 3 May 2012. The Council's scheduled policy and strategic decision making committee cycle for this term concludes today. In recognition of the fact that regulatory business will continue, Council agreed a timetable of meetings in October 2011 for the Planning and Civic Licensing Committees as follows.

9.30 am	Planning Committee on Site	Monday 19 March
9.30 am	Civic Licensing	Wednesday 21 March
9.30 am	Planning	Wednesday 4 April
9.30 am	Civic Licensing	Wednesday 18 April

- 2.2 Other ad hoc committees, e.g. Appeals, will continue to be called as required. In addition, the Licensing Board has another two meetings scheduled on 28 March and 25 April.
- 2.3 While the formal meetings schedule of the Council is drawing to a close, the business of the Council will continue and urgent matters will still have to be dealt with. It is proposed, therefore, that Council delegates authority to deal with business between now and the date of the statutory meeting in the same way as it has been accustomed to doing over the summer recess periods. Consequently, authority to determine urgent items that would otherwise have been considered by Council or Committee will be delegated to the Chief Executive and to Directors, in consultation with the Convener and/or Depute Convener of the appropriate Committee. Any such report would require to be submitted to the Chief Governance Officer in the first instance. This is, however, a general principle of delegation and is subject to a number of important exceptions.

2.4 These exceptions are:-

- (1) no officer shall be entitled to take decisions involving Council expenditure outwith the approved Revenue Budget and Capital Programme;
- (2) no officer shall take decisions involving an increase in the permanent establishment of his/her Service; and
- (3) no delegated decision shall be taken where there is a dispute as to the legality, propriety or the proper interpretation of Council policy arising from the matter to be decided.

2.5 A special meeting of the appropriate Committee would be convened if it was necessary to take a decision urgently in respect of any matter falling within one of the exceptions.

2.6 In taking any decisions under the auspices of this authority, Directors would be required to consult as widely as necessary and, in any event, with the Chief Executive and the Chief Governance Officer.

3. PREPARATORY WORK

Standing Orders and Scheme of Delegation

3.1 In accordance with schedule 7 to the Local Government (Scotland) Act 1973, the new Council must hold its first meeting within 21 days of the election on 3 May. The Council will be entitled to determine its own decision making structure. This may necessitate a change to the Scheme of Delegation that underpins the structure and to Standing Orders. This will be for the Council to determine. In the meantime, officers are currently reviewing the existing Scheme of Delegation and Standing Orders for the purpose of updating them and clarifying any ambiguities or other issues that have arisen since they were last reviewed. Any suggested changes would be reported to Council for approval and would be without prejudice to the Council's ability to make more substantial structural changes.

Protection of Vulnerable Groups/Disclosure Checking

3.2 In May 2007, Council agreed to extend disclosure checks to all members of Council rather than restrict them to members serving on those Committees caught by the Protection of Children (Scotland) Act 2003, i.e. the Education and Housing and Social Care Committees.

3.3 Members were advised in February 2011 of the introduction of the Protection of Vulnerable Groups Scheme and the impact of this on Council employees in particular. The introduction of the new system requires each organisation using criminal record checking as part of its recruitment and appointment processes to consider the scope and appropriateness of these checks. In the same way as the Council considered the applicability of the new scheme to each employee group, the same process requires to be undertaken in relation to councillors. The legislation is clear that membership of the PVG scheme is appropriate only where the individual applying for the scheme is undertaking regulated work. This is defined as including membership of a committee of a local authority advising on or discharging functions in relation to education or social work issues. This makes membership applicable

for those appointed to the Education and Housing and Social Care Committees within the current structure but **not** to the whole membership of the Council.

- 3.4 A further issue which arises is payment for membership of the PVG scheme. In February 2011, the Policy and Resources Committee decided that the Council would pay the membership fee for employees but recover it in six monthly instalments. A decision is required on whether the membership fee for members of the relevant Committees should be met by the Council or in an arrangement akin to that established for employees.

Appointment to Committees and External Organisations

- 3.4 As indicated in para 3.1 above, the incoming Council may wish to review the decision making structure. In that regard, it should be borne in mind that where an education authority appoints a committee whose purposes include advising on any matter relating to the discharge of their functions as an education authority, the authority must appoint certain church representatives to that committee. This would apply to the Council's Education Committee. There is also provision to include a wider non-Councillor representation on that Committee than would on others. Council will be asked post-election to appoint members to its Education Committee. However, the process for identifying nominees will commence prior to the election to allow them to be considered for appointment at the same time as Councillors.
- 3.5 As is customary after the election, Council also will be invited to consider requests by external organisations seeking elected member representation on them. The list of these organisations is lengthy. Council may wish to take the opportunity of considering in more detail the various bodies seeking representation with a view to establishing what the purpose of membership is and whether membership is the best way of achieving that purpose. The Governance Division has contacted those bodies on its database of external organisations with a view to reporting any requests to Council post-election.

Training

- 3.6 The Governance Division is currently developing an induction and training programme for all members of the incoming Council. It is intended to be tailored to the needs of Councillors, both new and returning. While attendance at much of it will be voluntary, certain sessions will be compulsory.
- 3.7 **Licensing Board** – the Licensing (Scotland) Act 2005 provides that each member must have undergone an accredited training course on the Act within 3 months of being appointed. This applies to returning members of the Board as well as to new members. A member cannot take part in any proceedings of the Board until they have completed the training. Unlike membership of the Council itself, demitting members of the Board continue to hold office until the new Board is elected at the statutory meeting. The new Board will not be able to undertake any business, however, until they are trained. It follows that the training will need to take place soon into the new term in order to manage any business that requires to be carried out. Only external approved trainers can carry out the training. A training provider has been identified and provisional dates booked on 29 and 31 May and 4 June 2012. The training lasts for a full day and will be narrowed down to one of the dates mentioned. It is hoped that members of the Board will be able to make themselves available to attend.

- 3.8 **Pensions Committee and Panel** - members of this Committee and Panel will be subject to training requirements agreed by the Investment Committee to ensure compliance with Scottish Government Guidance.
- 3.9 **Appeals, Appointments, Civic Licensing and Planning Committees** - members will recall that Council agreed, in May 2007, to introduce compulsory training for those members appointed to its Appeals, Appointments, Civic Licensing, and Planning Committees. This decision recognised the specialised nature of the work of these committees, all of which involve taking quasi-judicial decisions within specific statutory frameworks. It is anticipated that Council will want to continue with this approach to training.
- 3.10 It may be that Council will also consider making certain other training or development sessions compulsory in recognition of the growing importance of the matters to be considered. For example, information security is an ever more important topic with potentially significant monetary penalties and reputational risk where that security is breached. Additionally, the Council's role as corporate parent to the children and young people in its care is one that all councillors should be knowledgeable about and committed to. Further information on suggested areas for training and development will be provided to early meetings of the new Council.

4. RECOMMENDATIONS

4.1 Council is invited to:-

- (1) authorise the Chief Executive and Directors to take decisions between the date of this meeting and the statutory meeting as set out in paragraphs 2.3 to 2.6 of this report,**
- (2) note that the statutory meeting of the new Council will be held on or before 24 May 2012,**
- (3) note the current preparatory work being undertaken in advance of the statutory meeting, and**
- (4) note that only those members appointed to Committees dealing with education and social work issues will require to be members of the PVG scheme and agree how that membership will be funded.**

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Chief Governance Officer
Date: 20 February 2012
Contact Officer: Brian Pirie

LIST OF BACKGROUND PAPERS

Nil