FALKIRK COUNCIL

Subject:	**DECISION MAKING STRUTURES**
Meeting:	**FALKIRK COUNCIL**
Date:	**5 DECEMBER 2012**
Author:	**CHIEF EXECUTIVE**

1. INTRODUCTION

1.1 At its meeting on 18 May 2012 Council asked me to carry out a review of decision making structures and to report back on that review to this meeting of Council. Council also wished consideration to be given to expanding the number of representatives of the Council performing civic roles and for the potential for substitutes on committees to be addressed.

1.2 In taking forward the remit determined by Council, I sought assistance from Group Leaders and from the Provost. This Group had its first meeting in August 2012. Since then it has met on a further four occasions during which a number of issues have been considered. This report outlines the discussion at those meetings and also presents two models of decision making which Council may wish to consider in moving forward.

2. BACKGROUND

2.1 In considering new models of decision making it is important that Members keep in mind some of the overarching principles that govern good decision making. Audit Scotland has set out the key features of an effective decision making structure against which any framework should be assessed.

- **Efficiency:** decisions should be taken quickly, responsively and accurately to meet the needs and aspirations of the community

- **Accountability:** decision-makers should be answerable to the community

- **Transparency:** it should be clear to communities who is responsible for making decisions

- **Openness:** the process of decision making should be open to examination by all stakeholders

- **Inclusiveness:** all relevant stakeholders should be actively involved in the decision making process

2.2 A feature of Best Value Audits of local authorities has been the focus on decision making structures operated by Councils and how effectively they comply with the key principles. Audit Scotland's Best Value 2 Audit of any Council is likely to comment on the effectiveness of its decision making and also whether all participants work within that structure to support sound, timeous and effective decisions.

2.3 The Council's current decision making structure was introduced in 1999. While there have been amendments to it since then, it has not changed fundamentally and continues to consist of the Policy and Resources Committee and five Scrutiny Committees. There are, in addition, a number of committees dealing with statutory business and quasi judicial matters including planning decisions, regulatory matters under the Civic Government (Scotland) Act 1982, oversight and control of the Council's pensions responsibilities and certain other administrative functions of a non political nature.

2.4 The Local Government (Scotland) Act 1973 permits decisions to be taken on behalf of local authorities by the Council itself, a committee or by officers. Councillors will generally take decision on policies and significant matters either at Council or at committee. Most routine decisions and operational matters within the terms of Council policy are taken by officers under a Scheme of Delegation.

2.5 In Scottish local government, the two models for political decision making tend to be as follows:-
- a committee system where all decisions not reserved to Council or delegated to officers are taken by a number of committees with specific terms of reference or
- an executive and scrutiny model where most decisions not reserved to Council or delegated to officers (except regulatory and quasi judicial decisions) are taken by an Executive Committee (also known as a Cabinet) counterbalanced by a scrutiny process consisting of one or more committees or panels.

2.6 The committee model, usually though not always based on Services, was the predominant model used in Scottish local government until the late 1990's. Following recommendations contained in the McIntosh Commission Report in 1999, a number of Scottish Councils moved to executive and scrutiny models although it was also recognised in the report that a streamlined committee system could delver the required level of change.

2.7 In response to the McIntosh Report, this Council introduced its current decision making system, which borrowed from both models; the Policy and Resources Committee having some elements of an Executive and the scrutiny committees still retaining elements of the more traditional Service committees.

2.8 In recent years, a number of authorities have switched models. For example, the City of Edinburgh Council originally adopted an Executive Committee model following the McIntosh Report but changed back to a committee model after the 2007 elections and has currently undergone another review following the most recent local government elections.

2.9   At present, the majority of Scottish Councils describe themselves as using a committee model. In a survey carried out recently by North Ayrshire Council, 27 Councils responded with 10 describing themselves as using a Cabinet/Executive model and 17 describing themselves as using a committee model.

3.   **DELIBERATIONS**

3.1   As noted above, the Group of senior members has met on 5 occasions. An early requirement was to establish Members' views of the existing decision system and their objectives for any replacement of that system. At the first meeting of the Group, the following issues were raised:

- The need for quicker, more efficient decision making;
- The number and length of meetings that Members are expected to attend;
- The need to reduce the workload in committees thus enabling Members to spend more time in their constituencies, recognising also that they may have work or family responsibilities as well as ward responsibilities;
- The length of reports and accompanying papers submitted to committees and the unreasonable expectation on Members to read and analyse lengthy reports within a short period of time and with other competing demands;
- The number of reports that are presented to Members for information only;
- The excessive amount of paperwork produced;
- How to engage and inform Members about issues without putting information for noting on agendas;
- What does scrutiny mean? i.e. is scrutiny about challenging a decision that is about to be taken or does it relate to examining the <u>outcome</u>s particular decisions are designed to achieve, if they have achieved the required outcomes and, if not, the lessons that can be learned;
- The need to ensure meaningful scrutiny of significant items and the concern that scrutiny committees currently favour breadth over depth;
- How to reflect proportionality in an effective decision making structure;
- Whether use of the political whip impedes effective decision making;
- Whether there is sufficient clarity that reports are written and presented to reflect the professional opinions of officers;
- Do we have a review process for our decision making structure i.e. 'how good is our decision making'?
- How can we make sure our decision making is transparent, open and understandable by the public?
- Can we ensure there is a greater focus on outcomes rather than inputs and outputs?
- Is there a role for substitutes?
- Should Committees be able to establish sub committees or working groups and, if so, what is their role?
- How could we bring in external expertise for consideration of particular issues while retaining accountability?
- Recognition that there is little public involvement at Council meetings.
- Whether the timing of the meetings should be reviewed, for example to take place in the evening.

- The impact of the current call in procedure on decision making, where it is possible for items to be debated on three separate occasions at different decision making meetings with a consequent delay in decision making.
- The role of Members in awarding contracts and the need to recognise the complex legislative environment in which public procurement decisions require to be taken. At the stage of contract award, there is little discretion available to Members and accordingly there is a requirement to consider whether information should be provided at an earlier stage when influence could more meaningfully be brought to bear.

3.2   While some of the points made are contradictory, it was felt that they provided a useful summation of the issues that should be considered when thinking about a new decision making structure.

3.3   The Group considered the way the Council and its committees currently work. It looked at the structure and workings of the existing system. In particular, it reviewed the whole decision making structure through one full cycle of meetings. This review led to a number of suggested improvements. These included some general suggestions and some more specific areas for consideration including:

- Officers offering briefings for all Members on complex issues prior to Committee;
- Electronic agendas could be developed;
- There should be greater use of the information bulletin by all Services;
- Reports should aim to be no more than 4 pages long;
- Recognising the legislative framework for dealing with public sector contracts as highlighted earlier in this report, it is suggested that a system could be introduced akin to that operated for planning decisions whereby members would receive a periodic list of contracts to be awarded identifying the preferred tenderer. Only those contracts then called in by members would be submitted to Committee with contracts not called in being awarded by officers under delegated authority. This proposal would require a further amendment to the limits of authority set out in Contract Standing Orders.
- A more streamlined approach to dealing with the increasing number of consulations before the Council could be developed, with scope for responses to be agreed at Group Leader level, failing which the matter would be referred to the appropriate committee.

3.4   At the second meeting of the Group, it was agreed that there would be a discussion on two models of decision making at the following meeting – a Cabinet and a more traditional Committee based structure. It was also agreed that, given the Cabinet was a significant change from our current system, a visit to West Lothian Council would be organised so that Group Members could see how the Cabinet system it operated worked in practice.

3.5   The third meeting of the Group focussed on discussing the two models. These discussions did not arrive at any firm conclusion on which model Members of the Group preferred and therefore whether there was a consensus that I could recommend to Council.

3.6   Some feedback from the visit to West Lothian was discussed at the last meeting. While Members of the Group thought there was merit in the West Lothian approach, it was emphasised that any model to be adopted here would have to be a bespoke Falkirk one, whatever the basic framework.

3.7   Each of the models was discussed and the pros and cons highlighted. These include:

Executive/Cabinet and Scrutiny		Traditional Committee	
Advantages	Challenges	Advantages	Challenges
Reduces time to take decisions	Focuses decision making on a small number of Members	Familiar to Members	How would it deal with cross cutting issues e.g. poverty, community safety etc
Scrutiny panels could do in depth and thorough pieces of work	Need to focus the agenda of Cabinet and the Scrutiny Committee	Involves most Members in decision making	Role of resources Committee
Clarity of decision making	Use of Call in	Can focus on specific issues e.g. children etc	Use of Call in
Political groups have the opportunity to input through scrutiny	Agendas can be large	Scope for detailed discussion to take place at service committees	Possibility that decisions are delayed

3.8   A number of issues were also highlighted that, irrespective of the model eventually adopted, would have to be considered by Members. This includes the use of call in, the matters reserved to Council, the number and timing of Council meetings, notices of motion and also the structure of Council meetings.

3.9   In addition at this stage, a third model was proposed. This would involve all decisions being taken by Council itself with no delegation to any committees. It was suggested that the extent of work then incumbent on the Council could be discharged by having meetings take place over a 2 day period and more frequently that the current 8 week cycle.

3.10   The papers presented to the Group on two of the models are attached to this report as appendix one and appendix two. They are only presented in outline at this stage although more detail has been provided on the Cabinet model with this being the most radical departure from our current decision making process. It is important that Members decide in principle which model they would wish to adopt and then Officers can look to provide more detail on how that model would work for the Council. For example, if Members favoured a Committee model then the variations on the remit of Committees are numerous.

3.11   Specifically there are issues that Members would have decide once the structure is known e.g. the make up of the cabinet, who chairs the counterbalance to the cabinet etc. These are important issues that must be informed by the views of Members but really can only be done once the model itself has been decided on. Equally the decisions that Members take on one aspect of the model may impact on the overall framework

3.12   It is therefore proposed that Members consider the three options i.e. Committee, Cabinet and Council and agree which model they favour. Thereafter, further work will be undertaken to develop the preferred model in more detail, developing options for the way the model will work in Falkirk and also starting work on standing orders and the scheme of delegation to underpin the agreed decision making structure.

Other Issues

3.13   In addition to the need to review the process of decision making, Members have raised a number of issues that should be considered alongside any revised decision making structure. These include:

- The manner in which petitions could or should be dealt with;
- The future of regeneration working groups;
- Whether there is a place for substitutes and pairing;
- The manner of reporting back from external bodies where there is a Council appointment.

3.14   These matters have been discussed among the Group (with papers issued on some of them) but can't move forward meaningfully until the model has been approved, in principle at least.   They have been noted, however, and will be included as part of the further work to be carried out and brought back to Members for consideration.

3.15   In addition to all of the above, Members have expressed concern about the roles they play on external bodies, the clarity of these roles and how they feed back to Council. While the Group considered this issue, there was no final agreement on how this issue should be addressed. It is therefore proposed that a review of the role, purpose and reporting on appointment to outside bodies be brought back to Council for consideration.

Police and Fire - Scrutiny and Accountability Arrangements

3.16   Members will be aware that with the forming of the new Scottish Police Service and the Scottish Fire and Rescue Service, the Joint Police and Fire Boards will no longer exist. The Police and Fire Reform (Scotland) Act 2012 sets out the role of local authorities in monitoring and holding to account the new Services at a local level.   There is an expectation that Councils will put in place formal arrangements to scrutinise local service delivery and approve the local police and fire plans before 31 March 2013. The long term arrangements for such scrutiny will be dependant on the model of decision making adopted by Council. In the meantime, it is proposed that the draft police and fire plans sit within the Environment and Community Safety Committee and that this Committee considers them once they have been submitted. The main reason for this is that the plans will be developed using the model of strategic assessment that has already been reported to the Environment and Community Safety Committee.

4. TIMETABLE

4.1 If Members agree on their preferred model at today's meeting, it is proposed that Officers will develop that model in further detail, drafting standing orders, and a scheme of delegation to underpin it, before reporting back to Council for final approval. It is therefore proposed that any new decision making structure would come into place at the beginning of the new financial year i.e. April 2013.

4.2 It follows from the foregoing that the existing decision making structure would continue until the new structure was in place. To accommodate this, a programme of meetings for the period to April 2013 is attached as appendix 3 for Council's consideration.

4.3 In moving to a new system of decision making, the opportunity will also be taken to review and refresh the long established report and minuting styles. With regard to reports, there is a need to ensure that the evolving nature of statutory and other material considerations that should be addressed whenever a formal decision is being taken is captured and applied consistently across all reports.

5. CIVIC ROLES

5.1 The decision of Council in May included reference to considering "the issue of expanding the number of representatives of the Council performing civic roles to include Baillies."

5.2 The term "Baillie" is a historic one linked to the Royal Burghs which continued to have a legislative relevance with respect to burgh courts until 1975 when the District Courts (Scotland) Act abolished those courts and with them the statutory role of Baillie. It is understood that some Councils, principally cities, e.g. Glasgow and Stirling, have re-introduced the honorary title and role.

5.3 The Provost has been appointed by Council as its civic head. He is assisted in that role by the Depute Provost. It would be available for Council, should it so wish, to further expand the number of members formally holding civic roles. The honorary title of Baillie could be applied to those roles.

5.4 This issue is before Council for consideration.

6. CONCLUSIONS

6.1 While the Group has covered a lot of ground in its considerations, it is important that Council now agrees which model of decision making it wishes to adopt moving forward. Once this has been agreed, the detail and options for making that model work in Falkirk will be advanced.

7.   RECOMMENDATIONS

7.1   It is recommended that;

(i)   Council agrees which model of decision making it should adopt from 1 April 2013:
- **Option A – a revised Committee structure;**
- **Option B – a cabinet/executive and scrutiny structure, or**
- **Option C – a structure where all decisions are taken by Council with no delegation to any Committee.**

(ii)   Once the preferred option has been identified, a further report will be brought to an early meeting of Council with detail on how it will work in practice, options for delivery, amended standing orders and a revised scheme of delegation;

(iii)   Council agrees the interim arrangements set out in paragraph 3.16 for performing the functions given to the Council under the Police and Fire Reform (Scotland) Act 2012;

(iv)   The timetable of meetings set out in appendix 3 is adopted for the period to 31 March 2013;

(v)   A review of the external bodies to which members are appointed is carried out with a view to determining an agreed set of criteria against which any requests for Member involvement can be assessed;

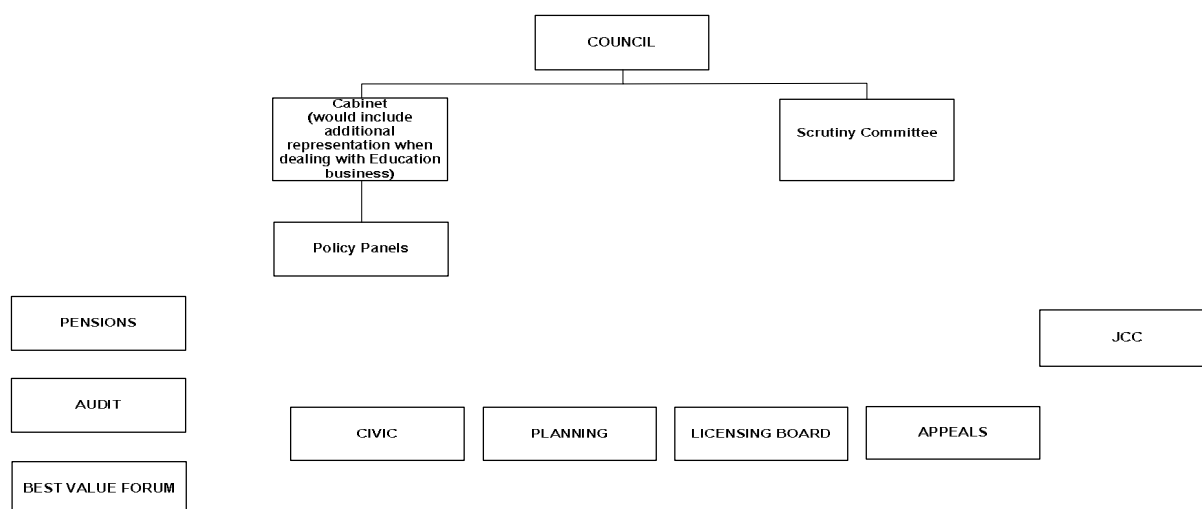**(vi)**   Council considers whether to appoint a Members or Members to the honorary role of Baillie.

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CHIEF EXECUTIVE

Date: 28 November 2012

LIST OF BACKGROUND PAPERS

NIL

EXECUTIVE / CABINET MODEL

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    │ Cabinet             │              │ Scrutiny Committee  │
    │ (would include      │              └─────────────────────┘
    │ additional          │
    │ representation when │
    │ dealing with        │
    │ Education business) │
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        │  Policy Panels  │
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PENSIONS					JCC

AUDIT

	CIVIC	PLANNING	LICENSING BOARD	APPEALS

BEST VALUE FORUM

The Executive/Cabinet

1.1   The purpose of an Executive/Cabinet is to focus decision making within one body, thus ensuring timeous and consistent decisions that are taken by a clearly identified and accountable number of members. In this model, the Executive/Cabinet also:

- comprises of a distinct majority of senior Councillors from the Administration and very few members from the main Opposition

- makes all key strategic and service delivery decisions excluding business specifically reserved to Council e.g. setting budgets

- has some Administration Members allocated to "Executive/Cabinet portfolios" reflecting a thematic approach and acting as spokespersons in their areas of responsibility

- is counterbalanced by a mechanism ensuring activities and performance are scrutinised

- circulates its agenda and minutes to all Elected Members

1.2   Executive/Cabinet meetings may take place every two weeks to promote swift turnaround of business. Where an Executive/Cabinet exists, it is the norm that it takes all key decisions on policy and service delivery without referral to Council or scrutiny committees. The Executive/Cabinet does not consider any item for information or noting but relies on the proposed Scrutiny Panels to provide a review or recommendations on issues within their remits.

1.3   The Executive/Cabinet is chaired by the Leader of the Council. The main purpose of the Opposition being on the Cabinet is to ensure openness and transparency in decision making and obviously provide an alternative view.

1.4   The Cabinet includes spokespersons who are also members of the Administration and who have specific remits. These remits could include:

- Environment and Regeneration – including Housing;
- Lifelong Learning;
- Poverty and social policy;
- Young people;
- Older people;
- Economic Development and Tourism;
- Management and Resources; and
- Community Planning and Best Value – (Leader of the Council)

1.5   Alternatively the spokespersons role could follow areas such as:

- Housing
- Health and Social Care
- Education
- Development i.e. all services with under development services
- Community Planning and external organisations
- Resources

1.6   The above are just suggestions and do not have to be related specifically to Scrutiny Panels, however it should be noted that, in most structures, spokespersons are not associated with specific Services. It is not always necessary that every member on the Cabinet has a spokesperson's role.

1.7   In some Cabinets there are two spokespersons for each remit apart from Community Planning and Best Value. The Leader of the Opposition is also a Member of the Cabinet but not one of the spokespersons nor do they have a remit in any of the areas noted above.

1.8   The only external representatives in this structure would be when the Executive/Cabinet takes decisions on education matters, when it should include at least the addition of the 3 statutory representatives. This can be described as the Education Cabinet in the structure, with the Cabinet meeting every fortnight and the Education Cabinet following every forth meeting i.e. once every 8 weeks. It may be that representation on the Executive/Cabinet could be extended beyond the 3 statutory representatives to reflect the additional representatives currently on the Council's Education Committee.

Issues

- The number of Members on the Executive/Cabinet
- The composition of the Executive/Cabinet;
- Would there be a call in facility between the Executive/Cabinet and its counterbalance and/or the Council.

Scrutiny Committee

1.9   Members might want to consider the establishment of a Scrutiny Committee. The Scrutiny Committee could call in decisions taken by the Cabinet for review but with the final decision on approval or otherwise of changes lying with the Cabinet. Timescales, criteria for calling in decisions etc would have to be set out clearly and specifically.

1.10   A Scrutiny Committee could have the following remit;
- scrutinising decisions both prior to and after they are made; and
- Performance review and best value function.

1.11   The Scrutiny Committee is not an alternative to the Council's approved appeals procedures and the Committee will not become involved in reviewing decisions on individual applications/circumstances. Fundamentally, the Scrutiny Committee is not a means of making a complaint against the Council. The Scrutiny Committee may be able to ask for things to be referred to Council but this should happen rarely in order to ensure appropriate and timely decision making.

1.12   The Scrutiny membership would reflect the political balance of the Council and would be drawn from Members who do not sit on the Cabinet. The Council would appoint the Chair of the Scrutiny Committee.

Issues:
- Call in to Council – if and why?
- Who would chair this Committee?
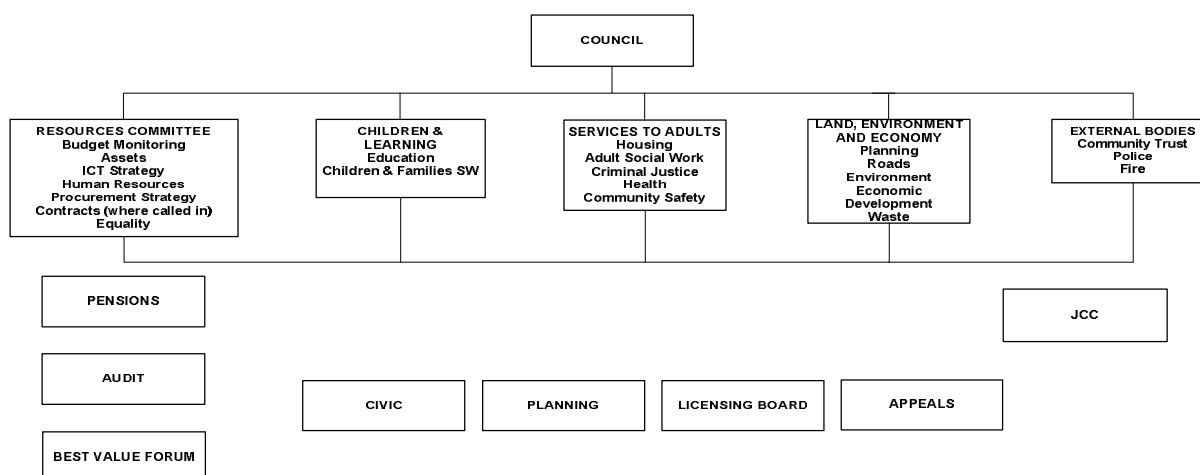- How would this relate to Audit Committee and/or Best Value Forum?

Review Panels

1.13   Review Panels (the Panel) would have the role of developing policy and reviewing service delivery and making recommendations on policy etc to the Executive/Cabinet. They have no decision-making powers. Once an issue has been considered by the Panel, it should be reported to the Executive/Cabinet for a decision. The report to the Executive/Cabinet, in addition to setting out the issue should reflect the discussion of the Panel and would record dissent on a particular issue. The Review Panel can involve a range of external representatives in terms of providing evidence but Members must approve the final report. As the Panels do not have any decision-making powers these external representatives could contribute fully to the discussions.

1.14   In establishing Review Panels and appointing Members to them, regard should be paid to the following provisions:-

(a)   Members of the Review Panels would not include Members of the Executive/ Cabinet but potentially could be from the Scrutiny Committee;

(b)   No more than two reviews should be undertaken by each Review Panel at any one time.

(c)   Each Panel requires to have a clear remit and be established for a specific period of time – it may be that a Review Panel is established for a time limited and specific piece of work or that it is a standing Committee that meets regularly with a specific on-going remit etc;

(d)   The suggested optimum membership for each Panel would be between three and five members, depending on the nature of the topic to be scrutinised;

(e)   The Executive/Cabinet can recommend to Council who chairs a Review Panel;

(f)   Each Panel could have the power to call expert witnesses including spokespersons from the Executive/Cabinet and other professionals or interest groups for advice, and

(g)   Each report or review would be presented to the Executive/Cabinet with recommendations for decisions.

1.15   Consideration would have to be given to the specific remit of the Scrutiny Committee, how and who can establish Review Panels and what, if any, Panels would be standing Committees e.g. looked after young people.

1.16   It could be that Scrutiny Panels follow the same remit as spokespersons or there could be a limited number of panels e.g. two panels, one with a remit for policy and service delivery and the other with a remit for resources.

Issues:
- Remit of Review Panels?
- How is the programme of review for each Panel determined?
- What is the relationship between the Chair of a Review Panel and the Spokesperson in the Executive/Cabinet?

COMMITTEE MODEL

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RESOURCES COMMITTEE	CHILDREN & LEARNING	SERVICES TO ADULTS	LAND, ENVIRONMENT AND ECONOMY	EXTERNAL BODIES
Budget Monitoring	Education	Housing	Planning	Community Trust
Assets	Children & Families SW	Adult Social Work	Roads	Police
ICT Strategy		Criminal Justice	Environment	Fire
Human Resources		Health	Economic	
Procurement Strategy		Community Safety	Development	
Contracts (where called in)			Waste	
Equality				

| PENSIONS | | | | JCC |

| AUDIT | CIVIC | PLANNING | LICENSING BOARD | APPEALS |

| BEST VALUE FORUM |

1.   The revised committee structure set out above aims to address some of the principal concerns raised within the decision making working group while retaining a traditional committee system. In particular, it attempts to address the concern that there are too many committees and that decision making can be seen in some cases as slow and open to the same discussion taking place at three levels. It also builds on the view advanced by some in the group that some of the roles performed by Policy and Resources Committee amounted to unnecessary duplication of the work of the scrutiny committees.

2.   The core of the proposed model is a smaller number of committees covering significant areas of the Councils services. The diagram suggests three thematic committees but there is no reason why this could not be a lower or higher number. The key suggested difference to the existing structure would the ability of these committees to decide policy within their own areas of competence.   Similarly, they would have financial competence within the agreed council budget. In addition, it is suggested that there should be a committee with an overarching interest in resource issues such as budget monitoring, procurement and human resources. Potentially, this committee could have the ability to call in decisions of a thematic committee if, for instance, the decision had a significant impact on the Council wide budget. In the same way, the structure allows for, but does not require, the potential for call in from a committee to the Council.

3.   One further innovation is the suggestion of a committee, the External Relations Committee, with a specific remit of scrutinising services where the Council is either the commissioning body (the Community Trust) or where it has the role of approving and monitoring its local operating plan (the Scottish Police Service and the Scottish Fire and Rescue Service). The purpose of drawing these roles together is to create a body within the decision making structure which reflects the difference between the role of a committee where the services are delivered by the Council direct and those where the relationship is at arm's length.

FALKIRK COUNCIL - PROGRAMME OF MEETINGS
JANUARY TO MARCH 2013

TIME	COMMITTEE	CYCLE 3
9.30 am 9.30 am	Policy & Resources Committee Civic Licensing	Tues 15 January Wed 16 January
9.30 am	Environment and Community Safety Committee	Tues 22 January
9.30 am 9.30 am	Education Committee Planning Committee	Tues 29 January Wed 30 January
9.30 am 9.30 am	Housing and Social Care Committee Joint Consultative Committee	Tues 5 February Wed 6 February
9.30 am	Planning Committee On Site	Mon 11 February
9.30 am 9.30 am	Policy & Resources Committee Civic Licensing	Tues 12 February Wed 13 February***** Thurs 14 February
9.30 am	Leisure, Tourism and Community Committee	Tues 19 February
9.30 am 9.30 am	Economic Strategy and Development Committee Planning Committee	Tues 26 February Wed 27 February
9.30 am	Falkirk Council	Wed 13 February***** Wed 6 March
9.30 am	Pensions Committee	Thursday 7 March
9.30 am	Planning Committee On Site	Mon 11 March
9.30 am	Civic Licensing	Wednesday 13 March
9.30 am	Audit Committee	Mon 25 March
9.30 am	Planning Committee	Wednesday 27 March

Public Holidays: 2 and 3 January and 29 March 2013
*Special Budget meetings of the Policy and Resources Committee and Falkirk Council provisionally scheduled for Wednesday 13 February 2013 but this date is subject to change.
Licensing Board Meetings: 23 Jan, 20 Feb and 20 Mar 2013 (for information only and subject to Board confirmation and alteration)