

**DRAFT****FALKIRK COUNCIL****MINUTE of MEETING of the FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 7 MARCH 2007 at 10.30 AM.**

**PRESENT:** Provost Johnston; Depute Provost Wilson; Councillors Alexander, Anderson, Bryson, Coleman, H Constable, J Constable, Eaglesham, Fowler, D Goldie, G Goldie, Gow, Graham, Hamid, Rev Jenkinson, Kenna, A MacDonald, C MacDonald, McNally, Martin, Miller, Nicol, Patrick, Pollock, Reid, Spears, Speirs, Williamson and Wilson.

**CONVENER:** Provost Johnston

**APOLOGIES:** Councillors Buchanan and McCafferty.

**ATTENDING:** Chief Executive; Directors of Community Services, of Corporate and Commercial Services, of Development Services, of Education Services, of Finance Services and of Housing and Social Work Services; Acting Director of Law and Administration Services; Head of Education Resources; Planning & Environment Manager (A Rodger); Waste Manager (C Devine); Development Plan Co-ordinator (C Hemfrey; Assistant Planning Officer (K Brown) and Democratic Services Manager.

**FC40. URGENT ITEM – PROPOSED NAME FOR NEW PRIMARY SCHOOL IN NORTH LARBERT**

Provost Johnston advised that, in terms of Standing Order 9.1, he has **AGREED** to accept an urgent item relating to the naming of the new primary school in North Larbert having regard to the special circumstances, viz, the timescales involved in completing the associated public consultation process.

**FC41. MINUTES AND INFORMATION BULLETIN**

- (a) There was submitted (circulated) and **APPROVED** Minute of Meeting of Falkirk Council held on 6 December 2006;
- (b) There was submitted (circulated) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 6 December 2006;
- (c) There was submitted (circulated) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 7 February 2007;
- (d) There was submitted (circulated) and **NOTED** Volume of Minutes of Meetings held since 21 November 2006; and

- (d) There was submitted (circulated) and **NOTED** Information Bulletin – Volume 5 – 2006/07.

Councillors Fowler and Martin entered the meeting during consideration of the following item of business.

## **FC42. REFERRALS FROM COMMITTEES**

### **(a) Formal Consultation – Proposed Closure of Torwood School**

There was submitted (circulated) (a) report by the Director of Education dated 1 March 2007 providing information on the outcomes of the formal consultation on the proposed closure of Torwood School; (b) extract of Minute of Meeting of the Education and Leisure Committee held on 30 January 2007, and (c) report submitted to the meeting of Education and Leisure Committee on 30 January 2007 by the Director of Education Services.

#### **AGREED:-**

- (1) to close Torwood School following the transfer of staff and pupils to the new specialist facilities at Maddiston and North Larbert Primary Schools, and
- (2) to approve the delineation of catchment boundaries for the two new facilities as detailed in Appendix 3 to the report.

### **(b) Carrongrove, Denny – Finalised Planning Brief**

There was submitted (circulated) (a) extract of Minute of Meeting of the Environment and Heritage Committee held on 20 February 2007, and (b) report dated 7 February 2007 by the Director of Development Services submitted to the Environment and Heritage Committee on 20 February 2007.

Councillor Spears, seconded by Councillor Bryson moved that the recommendations detailed in the Report be approved.

By way of an Amendment, Councillor Hamid, seconded by Councillor C MacDonald moved that (a) the 6.5 hectares industrial Carrongrove site be retained for industry/business; and (b) the same efforts be made to encourage and attract industry/business to locate on this site as being made in other Falkirk Council areas.

In terms of Standing Order 21.4(i) a vote was taken by way of a roll call, there being 30 Members present, with Members voting as undernoted:-

For the Motion (17) – Provost Johnston; Depute Provost Wilson, Councillors Alexander, Anderson, Bryson, Coleman, H Constable, J Constable, Eaglesham, Graham, Kenna, A MacDonald, McNally, Nicol, Patrick, Spears and Williamson.

For the Amendment (13) – Councillors Fowler, D Goldie, G Goldie, Gow, Hamid, Rev Jenkinson, C MacDonald, Martin, Miller, Pollock, Reid, Speirs and Wilson.

Accordingly, **AGREED** to approve the final version of the Carrongrove Planning Brief.

**(c) Falkirk Council Local Plan – Finalised Draft (Deposit Version)**

There was submitted (circulated) (a) report dated 28 February 2007 by the Director of Development Services summarising further changes to the Local Plan since it was considered by the Policy and Resources Committee on 13 February 2007; (b) Extract of Minute of Meeting of the Policy and Resources Committee held on 13 February 2007, and (c) report submitted to the Policy and Resources Committee at its meeting on 13 February 2007 by the Director of Development Services.

Councillor Alexander, seconded by Councillor Kenna moved that the recommendations detailed in the report submitted to the Policy and Resources Committee be approved, subject to the proposed revisions highlighted in paragraphs 2.2 and 3.2 of the further summary report.

By way of an Amendment, Councillor G Goldie, seconded by Councillor D Goldie moved that policy EDAL 12 be revised to include reference to small or large scale retail development.

Councillor Martin gave notice of further amendment.

In terms of Standing Order 21.4(i), a vote was taken by way of a roll call, there being 30 Members present, with Members voting as undernoted:-

For the Motion (16) – Provost Johnston, Depute Provost Wilson; Councillors Alexander, Anderson, Bryson, Coleman, H Constable, J Constable, Eaglesham, Kenna, A MacDonald, McNally, Nicol, Patrick, Spears and Williamson.

For the Amendment (14) – Councillors Fowler, D Goldie, G Goldie, Gow, Graham, Hamid, Rev Jenkinson, C MacDonald, Martin, Miller, Pollock, Reid, Speirs and Wilson.

Accordingly, the Motion was carried and became the Substantive Motion.

By way of a further Amendment, Councillor Martin, seconded by Councillor C MacDonald moved that the site identified on page 200 of the Finalised Draft Local Plan (Deposit Version) for 2 houses be removed from the Plan.

On a division, there were 17 votes for the Substantive Motion and 13 for the Amendment.

Accordingly, **RESOLVED** in terms of the Substantive Motion.

**(d) Forth Valley Area Waste Plan Update**

There was submitted (circulated) (a) Extract of Minute of Meeting of the Environment and Heritage Committee held on 10 February 2007, and (b) joint report by the Directors of Corporate and Commercial Services and of Development Services submitted to the meeting of the Environment and Heritage Committee on 20 February 2007.

Councillor Spears, seconded by Councillor Bryson moved that the recommendations detailed in the Report be approved.

By way of an Amendment, Councillor Gow, Seconded by Councillor D Goldie moved that the recommendations in the report be amended, as follows:-

- 3(a) to authorise the Director of Development Services to introduce recycling collections for commercial customers on a phased basis commencing in 2008/09 with charitable organisation continuing to be offered a free service. Falkirk Council Officers to work with local charities with a view to helping them reduce and best recycle their waste.
- 3(b) to review the issue of small traders permits including a seminar on waste management for Members and report back to Falkirk Council thereafter.

In terms of Standing Order 21.4(i) a vote was taken by way of a roll call, there being 30 Members present with Members voting as undernoted:-

For the Motion(17) – Provost Johnston; Depute Provost Wilson; Councillors Alexander, Anderson, Bryson, Coleman, H Constable, J Constable, Eaglesham, Graham, Kenna, A MacDonald, McNally, Nicol, Patrick, Spears and Williamson.

For the Amendment (13) – Councillors Fowler, D Goldie, G Goldie, Gow, Hamid, Rev Jenkinson, C MacDonald, Martin, Miller, Pollock, Reid, Speirs and Wilson.

Accordingly, **RESOLVED** in terms of the Motion.

**FC43. COMBINED SCOTTISH PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS – 3 MAY 2007**

There was submitted report (circulated) dated 23 February 2007 by the Returning Officer advising of relevant key dates together with miscellaneous legislative and procedural information relating to the combined Scottish Parliamentary and Local Government Elections to be held on Thursday 3 May 2007.

**AGREED** to note the legislative changes, key dates and procedural information relating to the forthcoming combined Scottish Parliamentary and Local Government Elections as detailed within the body of the Report and as contained in the Appendix thereto.

**FC44. STIRLINGSHIRE EDUCATIONAL TRUST**

There was submitted report (circulated) dated 23 February 2007 by the Acting Director of Law and Administration Services seeking approval for a change to the Trust Scheme for the Stirlingshire Education Trust.

**AGREED** to approve the proposed changes to the Stirlingshire Educational Trust Scheme 1957 as set out in Appendix 1 to the Report.

**FC45. ARRANGEMENTS FOR CARRYING OUT COUNCIL FUNCTIONS FROM 7 MARCH TO END DECEMBER 2007**

There was submitted report (circulated) dated 16 February 2007 by the Acting Director of Law and Administration Services proposing measures which would allow the Council to continue to discharge its statutory duties for the period from the meeting of Council on 7 March 2007 to end December 2007.

**AGREED:-**

- (1) to delegate to the Chief Executive and each Service Director in full consultation with the Chief Executive and Acting Director of Law and Administration Services, and all other parties as the Service Director deems necessary, power to take all decisions at present delegated to the Council's various Committees provided:-
  - (i) that any such decision is required to secure the proper deliver of Council Services and to comply with the Council's statutory duties;
  - (ii) that any such decision does not involve expenditure of Council's monies outwith the approved Revenue Budget and Capital Programme;
  - (iii) that any such decisions do not involve in the increase in the permanent establishment of the particular Service, and
  - (iv) that any decision involves no dispute as to legality, propriety or the proper interpretation of Council Policy as affecting the decision.
- (2) to agree the provisional dates for meetings of the Policy and Resources Committee and the Regulatory Committee of Tuesday 12 June and Tuesday 19 June 2007 respectively and 27 June 2007 for a meeting of Falkirk Council;
- (3) to note the provisional timetable of meetings attached as Appendix 1 to the Report;
- (4) to note that the Licensing Board will meet on Wednesday 20 June 2007, and
- (5) to note that the Statutory Meeting of the Council will be held on or before 24 May 2007.

#### **FC46. NOTICE OF MOTION**

Councillor Alexander, seconded by Councillor D Goldie moved as follows:-

“Falkirk Council welcomes and supports the Falkirk Herald’s Cork It campaign.

Council also recognises that the problems created for the community, including to young people themselves, with the illegal sale of alcohol to young people can only be tackled with the co-operation of all agencies involved”.

With the consent of the mover and seconder of the Motion, it was **AGREED** to amend the Motion to include reference to the important role that parents also have in this matter.

#### **FC47. PROPOSED NAME FOR NEW PRIMARY SCHOOL IN NORTH LARBERT**

There was submitted report (circulated) dated 6 March 2007 by the Director of Education Services advising of the recent community consultations to ascertain a preferred name for the new primary school in North Larbert.

**AGREED** to name the new school in North Larbert as Kinnaird Primary School.

#### **FC48. EXECUTION OF DEEDS**

There was submitted report (circulated) dated 22 February 2007 by the Acting Director of Law and Administration Services advising of the deeds which had been signed and sealed on behalf of the Council since its last Meeting.

**AGREED** to note the signing and sealing by the Acting Director of Law and Administration Services of the deeds specified in the Appendix attached to the Report.

#### **FC49. VALEDICTORY**

Provost Johnston, other Members of the Council and the Chief Executive, on the occasion of the last scheduled meeting of Falkirk Council prior to the Local Government Elections in May 2007, extended their appreciation to both Members and Officers for their contribution to the work of the Council and commented on the retirement from public office of a number of Councillors.

**DRAFT****FALKIRK COUNCIL****MINUTE of SPECIAL MEETING of FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on MONDAY 23 APRIL 2007 at 11.45 a.m.**

**PRESENT:** Provost Johnston; Depute Provost R Wilson; Councillors Alexander, Anderson, Bryson, Buchanan, Coleman, H Constable, J Constable, Eaglesham, D Goldie, G Goldie, Gow, Graham, Hamid, Rev. Jenkinson, Kenna, A MacDonald, C MacDonald, McCafferty, McNally, Martin, Nicol, Patrick, Reid, Spears, Speirs, Williamson and J Wilson.

**CONVENER:** Provost Johnston.

**APOLOGIES:** Councillors Anderson, Graham, Rev Jenkinson and J Wilson.

**ATTENDING:** Chief Executive; Directors of Community Services, of Corporate and Commercial Services, of Development Services, of Education Services, and of Finance Services; Acting Director of Law and Administration Services; Community Schools Project Director; Community Schools Project Manager; Charles Mackle, Depute Headteacher, Denny High School; John Derrick, Depute Headteacher, Grangemouth High School; Graeme Campbell, School Co-ordinator, St Mungo's High School; Garry Robertson, Teacher, Falkirk High School; Development Plan Co-ordinator; Technical Officer; Education Design Co-ordinator; Transport Co-ordinator, and Democratic Services Manager.

**FC3. MINUTE**

There was submitted (tabled) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 23 April 2007.





**FALKIRK COUNCIL****MINUTE of STATUTORY MEETING of FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on FRIDAY 18 MAY 2007 at 10.30 AM.**

**PRESENT:** Councillors Alexander, Black, Blackwood, Buchanan, Carleschi, Coleman, H Constable, J Constable, Fry, Goldie, Gow, Hughes, Jackson, Kenna, Lemetti, A MacDonald, C MacDonald, Mahoney, C Martin, C R Martin, McLuckie, McNally, McNeill, Meiklejohn, Nicol, Nimmo, Oliver, Patrick, Reid, Spears, Thomson and Waddell.

**CONVENER:** Chief Executive (items 1 and 2)  
Provost Reid (item 3 onward)

**ATTENDING:** Chief Executive; Directors of Community Services, of Corporate and Commercial Services, of Finance, of Development Services, of Education and of Housing and Social Work Services; Acting Director of Law and Administration and Democratic Services Manager.

**FC4. ELECTION OF FALKIRK COUNCILLORS**

There was submitted Report (circulated) dated 4 May 2007 by the Returning Officer detailing (a) the Councillors elected to Falkirk Council following the ordinary Elections held on 3 May 2007, and (b) the political balance of the Council.

**NOTED** the results of the Elections held on 3 May 2007 and the political balance of the Council.

**FC5. ELECTION OF PROVOST AND DEPUTE PROVOST**

There was submitted Report (circulated) dated 11 May 2007 by the Chief Executive advising of the requirement under the Local Government (Scotland) Act 1994 to elect a Councillor to the position of Convener (and known traditionally by the title of 'Provost') at the Statutory meeting of the Council following the ordinary Elections held on 3 May 2007 and highlighting the position in relation to remuneration. The report also referred to the discretion afforded to the Council in the appointment of a Depute Convener or Depute Provost.

The Chief Executive invited nominations for the office of Provost.

Councillor Alexander, seconded by Councillor Coleman nominated Councillor Spears.

Councillor Gow, seconded by Councillor C MacDonald nominated Councillor Reid.

At this point Council agreed to a short adjournment to enable members to consider a proposal from Councillor Alexander that whichever political group lost the vote to

appoint a member as Provost, that Group would not then challenge nominations from the winning Group to other office bearer positions. The meeting was re-convened at 10.45am with members and officers present as per the sederunt and with Members in agreement to the proposal as aforesaid.

There being just two nominations to the office of Provost, the Council proceeded to a simple vote. In terms of Standing Order 21.4(i) a vote was taken by way of a roll call, there being 32 members present, with members voting as undernoted:-

For Councillor Spears(16):- Councillors Alexander, Carleschi, Coleman, H Constable, J Constable, Hughes, Jackson, Kenna, A MacDonald, McNally, Meiklejohn, Nicol, Oliver, Patrick, Spears and Thomson.

For Councillor Reid (16):- Councillors Black, Blackwood, Buchanan, Fry, Goldie, Gow, Lemetti, C MacDonald, Mahoney, C Martin, C R Martin, McLuckie, McNeill, Nimmo, Reid and Waddell.

There being an equality of votes and in accordance with Standing Order 22.2, the Council proceeded to elect the Provost by lot in the form of a cut of a pack of playing cards.

Councillor Reid drew the 10 of spades.  
Councillor Spears drew the 4 of clubs.

Accordingly, **AGREED** to elect Councillor Reid as Provost of Falkirk Council and to remunerate that position in accordance with the requirements of the Local Governance (Scotland) Act 2004 (remuneration) Regulations 2007.

Councillor Reid, in accepting the nomination, took the Chair and undertook to work in the best interests of the Council.

Council having **AGREED** to appoint a Depute Provost, the Provost then invited nominations for that office.

Councillor Gow, seconded by Councillor C MacDonald nominated Councillor Black.

There being no other nominations, **AGREED** to elect Councillor Black, who accepted the nomination, as Depute Provost.

Thereafter Council agreed to a further short adjournment and reconvened at 11.15am with all members and officers present as per the sederunt.

#### **FC6. MEMBERSHIP OF COMMITTEES, ETC. AND APPOINTMENT OF CONVENERS AND DEPUTE CONVENERS**

There was submitted Report (circulated) dated 8 May 2007 by the Acting Director of Law and Administration Services inviting (a) determination of the basis on which places to Committees etc. will be allocated in terms of the political balance of the Council; (b) nominations to the Standing Committees of the Council, Joint Boards, Fife and Forth Valley Community Justice Authority; (c) determination of the size of the Licensing Board and the membership thereof, and (d) where appropriate, nominations to the positions of Convener and Depute Convener.

There was also submitted supplementary report (circulated) dated 16 May 2007 by the Acting Director of Law and Administration Services advising that Councillors Buchanan and Waddell had given notice since the agenda was issued that they had formed an Independent Group and that they wished to be considered collectively for the purpose of appointing Members to Committees etc. The report detailed the subsequent changes to the political composition of the Council and the associated impact on the breakdown of membership on Committees etc. and other bodies.

Council agreed to adjourn at 11.30am to enable members to consider the terms of a proposal from Councillor Alexander to amend the Committee structure and the allocation of places on Committees etc. The meeting was re-convened at 12.15pm with all Members and Officers present as per the sederunt.

Councillor Alexander, seconded by Councillor Coleman moved that Council agrees that its committee structure is in need of modernisation and reform. Council therefore calls on officers to bring forward a report on an amended structure that will contain:-

1. An unchanged Policy and Resources Committee
2. Four scrutiny committees of:-
  - Education
  - Housing, Health & Social Work
  - Communities
  - Strategic Sustainable Environment.
3. An unchanged Regulatory Committee.
4. A Licensing Board with 10 Members.
5. A Civic Licensing Committee matching the membership of the Licensing Board.
6. Unchanged JCC, Appeals, Appointments and Investment Committees.

Council also affirms that all four scrutiny committees shall include outside representatives from community and stakeholder groups and be structured in a manner to meet the community planning and inclusion agendas of Falkirk Council.

Council therefore agrees to nominate conveners and deposes to these committees today and accepts slates of candidates for membership of these committees as soon as possible from the groups. Where agreement cannot be reached on membership this will be determined on the date officers return to Council with a detailed report.

By way of an amendment Councillor Gow, seconded by Councillor C MacDonald moved that Council:-

- (1) agrees its political composition for the purposes of Committee membership as follows:-

Number On Committee	Allocation
3 (Fife and Forth Valley Community Justice Authority)	Labour 1 SNP 1 1 Conservative <b>or</b> 1 Independent <b>or</b> the non aligned Independent

6 (Appointments, Investment, Fire Board & Police Board)	Labour 3 SNP 2 1 Conservative <u>or</u> 1 Independent <u>or</u> the non aligned Independent
8 (P&R, Valuation Board & Appeals)	Labour 4 SNP 3 1 Conservative <u>or</u> the non aligned Independent
10 (JCC)	Labour 4 SNP 4 1 Conservative or the non aligned Independent <u>and</u> 1 Independent
12 (Scrutiny Committees, Regulatory and Civic Licensing)	Labour 5 SNP 5 1 conservative <u>or</u> the non aligned Independent <u>and</u> 1 Independent

- (2) agrees that there be submitted to the Acting Director of Law and Administration appropriate nominations of Members to the various standing Committees of the Council and Joint Boards in terms of the political balance noted above;
- (3) where agreement cannot be reached on the allocation of committee places between the Conservative Group, Independent Group or the non-aligned Independent then these positions will be determined by Council at a future Meeting;
- (4) appoints Members to the positions of Conveners and Depute Conveners of Committees, as follows:-

**Policy and Resources**

Convener - Cllr Gow

Depute Convener - Cllr Nimmo

**Community Health and Safety**

Convener – Cllr C MacDonald

Depute Convener – Cllr McLuckie

**Economic Development**

Convener - Cllr C Martin

Depute Convener - Cllr Lemetti

**Education and Leisure**

Convener - Cllr Waddell

Depute Convener - Cllr C Martin

**Environment and Heritage**

Convener - Cllr Mahoney  
Depute Convener – Cllr C R Martin

### **Housing and Social Services**

Convener – Cllr Goldie  
Depute Convener – Cllr McNeill

### **Regulatory**

Convener - Cllr Buchanan  
Depute Convener – Cllr Fry

- (5) agrees to appoint Conveners and Depute Conveners of the Appeals, Appointments, Civic Licensing, Investment and Joint Consultative Committees at the next meeting of Council;
- (6) agrees to introduce compulsory training for members appointed to the Appeals Committee, Appointments Committee, Civic Licensing Committee, Investment Committee and Regulatory Committee, and
- (7) agrees to establish a Licensing Board of 10 Members, with members being appointed in accordance with the political balance noted above.

On a division, 14 members voted for the Motion and 18 voted for the Amendment.

Accordingly, **RESOLVED** in terms of the Amendment.

It was further **AGREED** that the requirement to carry out disclosure checks for members appointed to the Housing and Social Work Committee and the Education and Leisure Committee be extended to all members of the Council.

## **FC7. LOCAL GOVERNANCE (SCOTLAND) ACT 2004 – REMUNERATION**

With reference to Minute of Meeting of the Policy and Resources Committee held on 16 January 2007 (Paragraph PR92 refers), there was submitted Report (circulated) dated 14 May 2007 by the Acting Director of Law and Administration Services outlining the statutory remuneration regime as it relates to members of local authorities and inviting members to determine a remuneration framework for the Council.

### **AGREED:-**

- (1) to designate Councillor Gow as Leader of the Council;
- (2) to introduce 14 Senior Councillor positions with 8 of the positions to receive remuneration at the rate of £20,753 p.a. and 6 to receive remuneration at the rate of £17,400 p.a. with further detail of the positions so rewarded to be submitted to the Acting Director of Law and Administration Services by the Leader of the Council and thereafter reported to Council; and
- (3) that one of the senior councillor positions would be accorded to the leader of the main opposition group.

**FC8. APPOINTMENT OF MEMBERS TO OUTSIDE ORGANISATIONS**

There was submitted Report (circulated) dated 11 May 2007 by the Acting Director of Law and Administration Services providing information on external bodies (a) which had expressed a wish to have representation from elected members of the Council or (b) to which the Council was obliged to make an appointment.

**AGREED:-**

- (1) to appoint Councillor C Martin and Councillor Lemetti to be the Council's representative on South East Scotland Transport Partnership (SEStran), and
- (2) to continue consideration of appointments to the remaining external bodies to the next meeting of the Council.

**FC9. APPOINTMENT OF EX OFFICIO JUSTICES OF THE PEACE**

There was submitted Report (circulated) dated 27 April 2007 by the Acting Director of Law and Administration Services advising of the provisions of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 and the effect this has on the appointment of ex officio justices of the peace.

**AGREED** not to nominate members for appointment as ex officio justices of the peace for the period up to the date that the provisions of the Criminal Proceedings etc (Reform)(Scotland) Act 2007 take effect.

**FC10. PROGRAMME OF MEETINGS – JUNE TO DECEMBER 2007**

With reference to Minute of Meeting of Falkirk Council held on 7 March 2007 (Paragraph FC45 refers) there was submitted Report (circulated) dated 23 April 2007 by the Acting Director of Law and Administration Services enclosing as an appendix a proposed Programme of Meetings for the period June to December 2007.

**AGREED** to approve the Programme of Meetings attached as an appendix to the report and to note that Special Meetings may be called if required.

## **FALKIRK COUNCIL**

### **EXTRACT OF MINUTE of MEETING of the POLICY AND RESOURCES COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on TUESDAY, 12 JUNE 2007 at 10.30 AM.**

#### **PR05. CIVIC GOVERNMENT (SCOTLAND) ACT 1982, NEW RESOLUTION; LATE HOURS CATERING POLICY AND CONDITIONS; STREET TRADERS POLICY AND CONDITIONS**

There was submitted report (circulated) dated 5 June 2007 by the Director of Development Services proposing that a new Resolution be promoted under the Civic Government (Scotland) Act 1982 relating to the Council's Late Hours Catering Policy and Conditions, and Street Traders Policy and Conditions. The report set out the arrangement required under the Act in relation to giving public notice of the proposed Resolution and detailed the proposed amendments to the existing policies and conditions.

**AGREED** to recommend to Falkirk Council that:-

1. Council promote the proposed Resolution attached as appendix 3 to the report and authorise officers to undertake the prescribed procedures to advertise the intention to make the Resolution and ingather any representation as detailed in the report;
2. officers report back to members on the outcome of these procedures with further recommendations as appropriate;
3. the late hours catering policy, attached to the report as appendix 4, be approved;
4. the street trading policy, attached to the report as appendix 6, be approved
5. the new street traders' conditions attached to the report as appendix 10 are approved and that they will apply to existing, renewed and new licences with officers being instructed to undertake the process referred to in paragraph 4.10 of the report;
6. the new late hours catering conditions attached to the report as appendix 11 are approved and that they will apply to existing, renewed and new licences with officers being instructed to undertake the process referred to in paragraph 4.10 of this report;
7. the mandatory licences in respect of skin piercing and tattooing continue to be for a one year duration with a fee of £200, and
8. the skin piercing and tattooing conditions, attached to the report as appendix 13, be approved.





**FALKIRK COUNCIL**

**Subject:** CIVIC GOVERNMENT (SCOTLAND) ACT 1982; NEW RESOLUTION; LATE HOURS CATERING POLICY AND CONDITIONS; STREET TRADERS POLICY AND CONDITIONS  
**Meeting:** FALKIRK COUNCIL  
**Date:** 27<sup>th</sup> June, 2007  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**1. PURPOSE OF REPORT**

- 1.2 The attached report was considered at the Policy and Resources Committee on 12 June 2007. The Committee agreed the recommendations and agreed to recommend them to Falkirk Council for approval.

**2. IMPLICATIONS FOR RESOLUTION**

- 2.1 As stated in paragraph 1.3 of the attached report, before a resolution can be made, the licensing authority require to publish a notice stating that they intend to make a resolution, and that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice. The licensing authority shall consider any representations made and may make any alterations to the proposed resolution in light of these representations, if appropriate, but provided these alterations do not extend the scope of the resolution.
- 2.2 A notice shall be published in the Falkirk Herald on 5<sup>th</sup> July 2007, from which the 28 day representation period shall start if Council indicates today that it is minded to make the resolution.
- 2.3 It is proposed that the notice identify the date on which the resolution will come into operation as 1<sup>st</sup> August 2008. This date may require to be put back when Council is asked to formally make the resolution, should any slippage of time have occurred e.g. by reason of the process of obtaining and considering representations.

**3. RECOMMENDATIONS**

**That Council:-**

- 3.1 approves the recommendations as outlined in the attached report and as approved by the Policy and Resources Committee on 12<sup>th</sup> June 2007, and, in particular indicates that it is minded to make a resolution in terms of the draft approved by Policy and Resources Committee.
- 3.2 approves the publication of a notice in the Falkirk Herald on 5<sup>th</sup> July 2007, which notice shall inter alia identify the date of coming into operation of the resolution as 1<sup>st</sup> August, 2008, and acknowledges that it may have to amend that this date and

3.3 notes that a further report on this matter will be made to a future meeting.

.....  
Director of Development Services

Date: 19 June, 2007

Contact Officer: Alison Cairns, Consumer Protection Manager (telephone 501005)

**LIST OF BACKGROUND PAPERS**

NIL

**FALKIRK COUNCIL**

**Subject: CIVIC GOVERNMENT (SCOTLAND) ACT 1982, NEW  
RESOLUTION; LATE HOURS CATERING POLICY AND  
CONDITIONS; STREET TRADERS POLICY AND  
CONDITIONS**  
**Meeting: POLICY AND RESOURCES COMMITTEE**  
**Date: 12 June 2007**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**1. INTRODUCTION**

- 1.1 The Civic Government (Scotland) Act 1982 (the Act) sets out the framework within which Local Authorities in Scotland license the carrying out of various specified activities within their administrative areas. Certain activities specified in the Act are mandatory in that Local Authorities (Licensing Authorities) are required to operate licensing schemes in respect of these. Other activities are optional and each Authority can determine whether or not to operate a licensing scheme for any, or all, of these, having regard to local circumstances.
- 1.2 Where an Authority determines to license a specific optional activity, it must make a formal resolution to do so in terms of Section 9 of the Act. The resolution must specify a date from which the activity or activities, which the licensing authority has chosen to license, shall require to be licensed in accordance with the provisions of the Act. This date must not be before the expiry of nine months beginning with the day on which the resolution was made.
- 1.3 Before a resolution can be made, the terms of the proposed resolution, together with a notice stating that the Licensing Authority intend to make the resolution and that representations about the resolution can be made in writing to the authority within 28 days of the first date of publication of the notice, must be published in a newspaper or newspapers circulating within the licensing authority area. The licensing authority shall consider any representations made and make any alterations to the proposed resolution in light of these representations, if appropriate.
- 1.4 As soon as the resolution is made, the Licensing Authority shall publish, in a newspaper or newspapers circulating in its area, the terms of the resolution, together with a notice stating that, from the date specified in the resolution, it will be an offence under the Act to do without a licence whatever the resolution specifies as requiring to be licensed, and, further, that the licensing authority will consider applications for licences after the expiry of one month from the date of making the resolution.

- 1.5 In September and November 1983, the former Falkirk District Council made resolutions to license various optional activities and extracts of the minute of the appropriate meetings of the Council are attached as Appendices 1 and 2.
- 1.6 It is considered that the passage of time, changes in society, the increase in the numbers and variety of premises offering, for example, late hours catering, and the growth and change in the economy have all contributed to the circumstances where a review of the Council's policy and licensing requirements in relation to civic licensing issues is now necessary to ensure that they are relevant and appropriate to meet the needs and aspirations of the economy, community and environment. To respond to this, it is suggested that a new resolution requires to be promoted and certain policies and conditions require to be revised.

## **2. PROPOSED NEW RESOLUTION**

- 2.1 Sections 10 to 23 of the Act deal with taxi and private hire car licences and this optional licensing activity was included in the resolution made in September 1983. Since that time, the hire of stretch limousines and special event vehicles e.g. fire engines has become very popular and a number of operators now trade in the Falkirk area. It is consequently recommended that these types of activity be specified as included as part of the above activity and included in the new resolution.
- 2.2 Sections 24 to 27 of the Act deal with second hand dealers licences and this optional licensing activity was included in the resolution made in September 1983. In relation to second hand dealers, the licensing authority requires to specify the class or classes of that activity which they will license and regulate. Over the last twenty years there have been significant changes in the availability and ownership of items such as mobile telephones, personal computers, music compact discs, DVDs etc which has led to the creation of a second hand market for these types of item. Additionally, second hand sellers of motor cycles, caravans, spare parts, tyres and musical instruments have been identified in the Falkirk Council area. It is consequently recommended that this activity be included in the new resolution with the following additional classes being included:
- Mobile Telephone Equipment
  - Motor Cycles and caravans including spare parts and tyres
  - Sport and recreational effects including personal computers, computer peripherals and discs
  - Musical Instruments
- 2.3 Section 38 of the Act deals with boat-hire licences and this optional licensing activity was not included in either of the 1983 resolutions. In light of the Millennium Canal Project, including the opening of the iconic Falkirk Wheel in May 2002, and the associated and continual development of the canals and waterways in the area, it is recommended that this type of activity be specified in the new resolution.

- 2.4 Section 39 of the Act deals with street traders' licences and this optional licensing activity was included in the September 1983 resolution. It is recommended that this type of activity continues to be specified in the new resolution.
- 2.5 Section 40 of the Act deals with market operators' licences and this optional licensing activity was included in the September 1983 resolution. It is recommended that this type of activity continues to be specified in the new resolution.
- 2.6 Section 41 of the Act deals with public entertainment licences and this optional licensing activity was included in the resolution made in September 1983. In relation to public entertainment, the licensing authority must specify the class or classes of that activity and the place or places where the activity may be carried on which they will license and regulate. Since the resolution was passed in 1983, other classes and places of public entertainment have been established in the Falkirk area and it is therefore recommended that the places and classes of public entertainment specified in the 1983 resolution are augmented by the following in the new resolution:
- Stadia or open spaces when used for open air concerts, shows, displays or events  
Go-kart tracks, mulator rides, bungee jumping, trampolines, quad bikes, motor stunt displays
- 2.7 Section 42 of the Act deals with late hours catering and this optional licensing activity was included in the September 1983 resolution. The Act specifies in this section that a licence shall be required for the use of premises between the hours of eleven o'clock in the evening and five o'clock the following morning for the sale to or consumption by the public of meals or refreshment on or off the premises. The resolution passed by Falkirk District Council in September 1983, specified that the commencement hour for such licences was 12.00 midnight. It is therefore recommended that this type of activity be specified in the new resolution and that the commencement hour for such a licence be 11pm to conform with the provisions of the Act.
- 2.8 Section 43 of the Act deals with window cleaners' licences and this optional licensing activity was the subject of the November 1983 resolution. It is therefore recommended that this type of activity continues to be specified in the new resolution.
- 2.9 It is recommended that the two previous resolutions which were made on 1983 be rescinded and replaced with a new resolution which more accurately reflects social, economic, environmental and regulatory needs in the Falkirk Council area. The proposed new resolution is attached as appendix 3

### **3. PROPOSED AMENDMENTS TO EXISTING POLICY**

- 3.1 **Late Hours Catering licences** are personal to the holder thereof and are not transferable. The Licensing Authority currently licenses approximately 70 persons to operate Late Hours Catering premises.

- 3.2 The Licensing Authority has not developed any specific policy on the matter of Late Hours Catering licences other than setting a terminal hour for such licences at 1:30am at the meeting of the Performance, Policy and Resources Committee held on 16 November 1993 (Committee Reference Number: 665). It is therefore recommended that a policy is approved in relation to this activity. The proposed new policy is attached as appendix 4.
- 3.3 The current late hours catering licence is renewed every three years and difficulties have been experienced by officers of the Licensing Section in maintaining accurate records and exercising regulatory control as ownership of this type of business changes on a frequent basis without the licensing authority being notified. It is therefore recommended that the duration of a late hours catering licence be changed from three years to one year, which will effectively increase the frequency of regulatory checks by officers to ensure accurate records are maintained.
- 3.4 As stated in paragraph 3.1, the general terminal hour granted for licences is 1:30am. This policy was approved in 1993 and it is proposed to review this policy with a view to introducing different terminal hours for take away premises operating in residential and non-residential areas. The Falkirk Council Local Plan (finalised draft) deposit version states that pubs, restaurants, hot food takeaways and other similar types of businesses have formed a significant growth area in the local economy and provide an important facility to both local people and visitors to this area. However, it is recognised that this type of premise can create amenity problems when located adjacent to residential properties. It is recommended that in relation to Falkirk, Denny, Bo'ness, Grangemouth and Stenhousemuir, the areas contained within the designated Town or District boundaries detailed in the Falkirk Council Local Plan (finalised draft) deposit version are classed as non residential and would generally have a terminal hour granted for licences of 1.30am. All other areas are classed as residential and, as such, in general have a terminal hour granted for licences of 12.30am. Maps outlining the Falkirk, Grangemouth, Stenhousemuir, Bo'ness and Denny, and designated Town or District boundaries are attached as appendices 5a, b, c, d and e respectively. Nothing in the policy would preclude the Licensing Authority from granting a licence subject to an earlier terminal hour if this was considered appropriate in the particular circumstances.
- 3.5 There has been an increase in the number of premises that operate on a 24 hour a day basis, namely supermarkets and petrol retailers, and these can be easily distinguished from take away premises as in the case of the former, the sale of take away food and drinks for immediate consumption is ancillary to the main function of these premises. It is therefore recommended that the licences for 24 hour supermarkets and 24 hour petrol retailers be generally granted until 5am.
- 3.6 **Street traders' licences** are personal to the holder thereof and are not transferable. The Licensing Authority currently licenses approximately 60 persons to carry out street trading activities with products supplied including fresh fish, confectionery, hot food, meat, hardware and textiles. Wheelie bin cleaning services and mobile valet services are also licensed.

- 3.7 The Licensing Authority has not developed any specific policy on the matter of street traders' licences other than setting a terminal hour for such licences at 1:30am. It is therefore recommended that a policy is approved in relation to this activity. The proposed new policy is attached as appendix 6.
- 3.8 The Scottish Executive has recently introduced the Schools (Health Promotion and Nutrition) (Scotland) Bill to Parliament which, if passed, will place health promotion at the heart of the schools' activities and ensure that food and drink served in schools meet high nutritional standards. Imposing an outright ban on street trading in the vicinity of schools is not within the scope of the Bill. Consultation with the Head of Educational Resources in Falkirk Council in relation to street trading near schools has revealed concerns about the availability of fast/junk food at a time when schools are trying to improve the quality and nutrition of food in schools and promoting a healthy eating agenda and culture. There is also a clear link between pupils' nutritional needs and their achievement in schools. It is therefore recommended that there is a 500 metre exclusion zone around schools in which street traders are not allowed to trade. However, these restrictions only apply during term time and then between the hours of 12 noon to 2pm and 3pm to 5pm on school days regardless of whom the traders are targeting.
- 3.9 It should, however, be noted that each licensing application must be considered on its merits. If it is contrary to policy, consideration must be given as to whether sufficient grounds have been put forward to justify a departure from policy. Even if a licensing application conforms with the policy, there can be circumstances when a license might not be given the full benefit of the policy position.

#### **4. PROPOSED AMENDMENTS TO EXISTING CONDITIONS**

- 4.1 Concerns have been expressed by Falkirk Council's Corporate and Commercial Services Estates Management Service about the problem of litter, particularly in the vicinity of take away food premises (both mobile and static). They also have concerns about the disposal of trade waste from these types of businesses.
- 4.2 Falkirk Council's current conditions for both late hours catering and street traders do not contain any conditions relating to trade waste. Although they both have a condition relating to litter neither condition is sufficient to address the problems currently being experienced. The current conditions for late hours catering and street traders are attached as appendices 7 and 8, with the conditions relating to litter and trade waste being condition 4 and condition 9 respectively.
- 4.3 A comparison process was carried out with 12 other local authorities in relation to both street traders' conditions and late hours catering conditions in respect of litter and trade waste. Consultation then took place with Corporate and Commercial Services Estates Management Service and the Environmental Protection Unit of Development Services.

- 4.4 The Environmental Protection Act 1990 prohibits the unauthorised deposit of waste and puts a duty of care on businesses to prevent escape of waste, to pass waste only to an authorised person and to produce appropriate paperwork in respect thereof. To comply, all businesses must have documentation to show who their trade waste has been passed to, the nature of the waste and when it was collected. The onus is on the business to ensure that their trade waste is only passed to a registered waste carrier. Section 47(2) of this Act makes a requirement for the provision by the occupier of the premise of suitable waste receptacles and the method of presentation to facilitate emptying, i.e. where the waste is to be stored for collection, when it is to be ready for collection and in what type of container.
- 4.5 To deal with the problem of licenceholders not accepting responsibility for, and therefore not removing litter outside their premises, it is proposed that in respect of applications for both late hours catering and street traders' licences a plan will be produced which will detail in respect of litter an area to be maintained. The licenceholder shall, during business and at the end of each day, ensure the collection and removal of any paper, food wrapping, food, litter or refuse, containers and drinks containers within the area specified on their plan. If required, the holder of a late hours catering licence shall provide and service litter receptacles within the areas to be maintained. Where the holder of a street traders' licence trades at a particular location for a period exceeding 5 minutes, there will be a requirement that a litter receptacle shall be provided at the trading site for the use of customers and removed by the trader thereafter..
- 4.6 To address the issue of adequate trade waste practices, it is proposed that holders of street trader licences shall make provision for emptying of the litter receptacle and ensure that all waste collected is removed along with all other commercial waste produced by the business. Additionally it is proposed that there should be a requirement for the applicant to submit appropriate "Duty of Care" documentation, an annual contract with a registered trade waste carrier for example, with the licence application.
- 4.7 In relation to late hours catering premises, it is proposed that the Licenceholder shall ensure that adequate and suitable provision is made for the presentation, storage and removal of refuse and other waste from the premises in accordance with the provisions of the Environmental Protection Act 1990. It is therefore proposed that a form detailing arrangements for disposal and presentation of waste and a copy of a current waste transfer agreement be submitted with the licence application. These arrangements will require to be considered satisfactory before a licence will be granted. A copy of the form detailing arrangements for disposal and presentation of waste is attached as appendix 9.
- 4.8 For the reasons outlined in paragraphs 4.1 to 4.5 above, it is therefore recommended that new conditions are approved in relation to litter and trade waste for both street traders and late hours catering. The proposed new conditions are attached as appendices 10 and 11 respectively.



- 4.9 In relation to street traders' licence conditions, a review of the conditions relating to food hygiene issues was carried out by the Food and Safety Manager, Development Services. It is recommended that conditions 6, 7 and 8 in the existing conditions, attached as appendix 8, be removed as the issues covered by these conditions are already covered by statute. Additionally, condition 10 has been removed as Scottish Executive Circular 6/1983 states that conditions must not be imposed so as to restrict/distort competition.
- 4.10 It is recommended that the new conditions, both late hours catering and street traders, apply to new and existing licences. In relation to existing licences, the procedures contained in Section 10 of the Civic Government (Scotland) Act Licensing Provisions to vary the terms of a licence will be commenced.

## **5. MANDATORY LICENSING ACTIVITIES**

- 5.1 As stated in paragraph 1.1 of this report, certain activities specified in the Civic Government (Scotland) Act 1982 are mandatory in that licensing authorities are required to operate licensing schemes in regard to these. Mandatory activities specified in the Act are metal dealers, itinerant metal dealers and indoor sports entertainment. Section 44 of the Act makes provision for new activities to be brought within the scope of the Act. New activities can be either optional, and therefore have to be covered by a section 9 resolution, or mandatory. The Licensing of Houses in Multiple Occupation Order 2000 requires mandatory licensing of houses in multiple occupation.
- 5.2 The Licensing of Skin Piercing and Tattooing Order 2006 was made on 1<sup>st</sup> of February 2006 and came into force on 1<sup>st</sup> of April 2006. Licensing of these activities is mandatory. The purpose of the order is to provide a mechanism to increase hygiene and reduce levels of infection in relation to skin piercing and tattooing, utilising inspection and licensing. The conditions that the licensing authority must impose are outlined in Schedule 1 to the Order.
- 5.3 A report was made to the Civic Licensing Committee by the Director of Development Services on 5<sup>th</sup> of April 2006 detailing the Order. A copy of this report is attached as appendix 12.
- 5.4 On 12<sup>th</sup> of December 2006, an amendment Order came into force which made a number of significant alterations to the principal Order. The amendment Order amends the conditions that must be imposed by a licensing authority when granting or renewing a licence for the carrying on of a business which provides skin piercing or tattooing, including in particular amending the conditions imposed on premises which carry out ear piercing but no other skin piercing or tattooing activities. The principal Order created an exemption for registered medical practitioners within a hospital or independent clinic. The amendment Order has now extended this exclusion to include any member of a profession regulated by a body specified in Section 25(3) of the National Health Service and Health Care Professions Act 2002.

- 5.5 It is, therefore, recommended that the conditions, which are attached as appendix 13, are approved. These conditions have been drafted in accordance with the amendment order.
- 5.6 A comparison process was carried out with 9 other local authorities in relation to the duration of skin piercing and tattooing licences and the fees charged. Some authorities issue licences for a period of three years, others for one year. It is recommended that Falkirk Council charge an annual fee of £200. Annual renewal would ensure an appropriately frequent inspection regime is applied.

## **6 RESOURCE IMPLICATIONS**

- 6.1 The net effect of the application of the recommendations in this report will have no significant resource implications.

## **7. CONSULTATION**

- 7.1 A total of 12 other local authorities were consulted in relation to litter, trade waste and skin piercing and tattooing issues.
- 7.2 Corporate and Commercial Services Estates Management section were consulted in relation to litter and trade waste issues.
- 7.3 Central Scotland Police were asked to comment on the matter and have made no objections thereto.
- 7.4 The Council's Food and Safety Regulation Manager was asked to comment on the matter and has made no objections thereto.
- 7.5 The Council's Environmental Protection Manager was asked to comment on the matter and has made no objections thereto.
- 7.6 The Council's Development Control Manager was asked to comment on the matter and has made no objections thereto.
- 7.7 The Council's Head of Education Services was asked to comment on the matter and has made no objections thereto.

## **8. RECOMMENDATIONS**

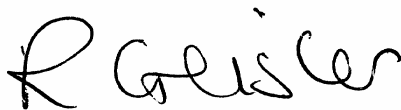
**That Members recommend to Council the following:**

- 8.1 that Council promote the proposed resolution attached as appendix 3 to this report and authorise officers to undertake the prescribed procedures to advertise the intention to make the Resolution and ingather any representation as detailed in this report;

- 8.2 that officers report back on the outcome of these procedures with further recommendations;

**In relation to licences granted in terms of the existing Resolutions, Members recommend to Council the following:**

- 8.3 that the late hours catering policy, attached to this report as appendix 4, is approved;
- 8.4 that the street trading policy, attached to this report as appendix 6, is approved
- 8.5 that the new street traders' conditions attached to this report as appendix 10 are approved and will apply to existing, renewed and new licences. Officers are instructed to undertake the process referred to in paragraph 4.10 of this report;
- 8.6 that the new late hours catering conditions attached to this report as appendix 11 are approved and will apply to existing, renewed and new licences. Officers are instructed to undertake the process referred to in paragraph 4.10 of this report;
- 8.7 that the mandatory licences in respect of skin piercing and tattooing continue to be for a one year duration with a fee of £200;
- 8.8 that the skin piercing and tattooing conditions, attached to this report as appendix 13, are approved.



.....  
**Director of Development Services**  
**5th June 2007**

**Contact Officer: Alison Cairns, Consumer Protection Manager (telephone 501005)**



## FALKIRK COUNCIL

### **EXTRACT OF MINUTE of MEETING of the POLICY AND RESOURCES COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on TUESDAY, 12 JUNE 2007 at 10.30 AM.**

#### **PR02. NEW COMMUNITY SCHOOLS - PROJECT UPDATE**

With reference to Minute of Special Meeting of Falkirk Council held on 23 April 2007 (paragraph FC2 refers), there was submitted report (circulated) dated 29 May 2007 by the Chief Executive advising that Financial Close on the New Community Schools Project was achieved on Friday, 18 May 2007 and providing information on the Construction and Operational Phases of the Project.

Councillor Gow, seconded by Councillor Nimmo, moved that Committee notes the status of the Project.

By way of an amendment, Councillor Kenna, seconded by Councillor Alexander, moved that Committee agrees to use the underspend within the budget for the new schools project to bring forward a report to the Education & Leisure Committee that begins to rectify the disparity in community access to the new schools in comparison to the Class 98 schools.

On a division, 4 members voted for the Amendment and 3 voted for the Motion.

Accordingly, **RESOLVED** in terms of the Amendment.



**FALKIRK COUNCIL**

**Subject : NEW COMMUNITY SCHOOLS – PROJECT UPDATE**  
**Meeting : POLICY & RESOURCES COMMITTEE**  
**Date: 12 June 2007**  
**Author : CHIEF EXECUTIVE**

**1. INTRODUCTION**

- 1.1 Financial Close on the Project was concluded on Friday 18 May. This represents the point where the multitude of legal documents are signed and the interest rate is fixed.
- 1.2 This report advises on the Financial Close outcome and looks forward to the Construction and Operational phases of the Project.

**2. BACKGROUND**

- 2.1 The Final Business Case was submitted to a Special Meeting of Council on 23 April. This reflected a Commercial Close position which in effect means the Council knows what it is going to get, when and for how much.
- 2.2 Council approved the Final Business Case subject to Scottish Executive and Audit Scotland approval. Moreover, delegated powers were granted to take the Project to Financial Close, with a subsequent report back to Committee on the outcome.

**3. FINANCIAL CLOSE**

- 3.1 There were a range of points raised by the Scottish Executive and Partnerships UK [PUK] on the Final Business Case, including derogations, but they were resolved following, in some cases, protracted discussion and negotiations.
- 3.2 Audit Scotland have signed-off the Project in terms of being off-balance sheet and delivery of Value for Money relative to the Public Sector Comparator.
- 3.3 A Key Stage Review has been completed by PUK on behalf of the Scottish Executive. Rather than being a review of the Final Business Case the Key Stage Review is forward focused on the Construction and Operational phases of the Project. This is considered further at sections 5 and 6 of this report

- 3.4 Inevitably, there were also a range of points which required to be negotiated to a conclusion with Gateway.
- 3.5 All necessary legal documents were signed. There was a delay in A&L King signing attributable to issues relating to their potential takeover by the Stewart Milne Group, but these were ultimately resolved. The Council and the Gateway Consortium have both received letters of comfort for the Stewart Milne Group.
- 3.6 The Financial Close rates were fixed at:-
- |                      |        |
|----------------------|--------|
| Interest Rate Swap - | 5.075% |
| RPI Swap -           | 3.05%  |

This results in a first full year unity charge of £11.697m which compares well with the estimated £11.93m contained in the Final Business Case. As previously highlighted this will be subject to full indexation.

#### **4. FINANCIAL CLOSE – RELATED MATTERS**

- 4.1 The Underwriting liability for Enabling Works previously approved by Council will now lapse as Financial Close has been reached before any payment trigger date.
- 4.2 Work will require to be taken forward with respect to the Charity. The final modelling means that apart from the annual £10k distribution which is “hard-wired” in, the charity will not receive large sums until the end of the contract. If there was to be a Refinancing early in the Project’s life the Charity can potentially receive 10% of the gain.

Special Council on 23 April agreed that legal and financial support would not be provided by the Council, albeit it will provide a level of administrative/secretarial support, which is to be determined by the Acting Director of Law & Administration.

- 4.3 The Service Level Agreement for the cleaning services being undertaken by the Council in-house needs to be completed.
- 4.4 Arrangements will be put in place in June to update the school communities and local communities on the firm design proposals determined at Financial Close. Local Area Forums will also be updated at the next available opportunity.
- 4.5 The Final Business Case and Project Agreement, subject to the exclusion of agreed commercially sensitive material will be placed on the Council’s website.



- 4.6 Following an interview and selection process Mr Graeme Hogg has been selected as the Independent Director. Mr Hogg is a former partner in Ernst & Young and also undertakes the role of Independent Director in the Argyll & Bute pilot.

## **5. GOING FORWARD – CONSTRUCTION PHASE**

- 5.1 The Key Stage Review sets out the Council's outline contract management framework and PUK's observations on this. It may be helpful to draw out some of the key points:-
- 5.1.1 PUK note that, "The overall project governance structure appears to be robust and gives assurance of ongoing effective contract management" and, "The proposed contract management structure and meeting/liaison arrangements appear to be appropriate to deal with issues arising during the construction phase and for ensuing timely delivery of the buildings". They acknowledge also the steps planned to ensure continuity as the Project moves through the various phases, but suggest specific steps to reinforce this. They recommend that the Steering Board should have formal terms of reference and that Internal Audit should review the project monitoring arrangements. Action will be taken to accommodate these recommendations.
- 5.1.2 Contract management will be geared to deliver the schools on time and to specification and with due regard to health and safety, together with minimum disruption to the delivery of the curriculum.
- 5.1.3 The Project Team is being recalibrated to reflect the challenges of this stage of the Project. The Manager and Co-ordinators will change from full-time to part-time. A greater focus is required on technical matters. This will require a Technical Supervisor and 2 Clerks of Works to be in place and discussions are live with Development Services to this end. The Task Groups are also being recalibrated to ensure they are fit for purpose.
- 5.2 The delivery timetable for the schools is:-

Grangemouth	December 08
Denny	February 09
St Mungo's	June 09
Falkirk	July 09

The initial activity on site is at Grangemouth and Denny High Schools. In both cases, site establishment and earth movement are already underway and a Scottish Power power cable will be diverted at Herbertshire in mid June. Gateway have advised that the cable diversion at Herbertshire will be completed quicker than expected. This will allow them to get several weeks ahead of schedule.

## **6. GOING FORWARD – OPERATIONAL PHASE**

- 6.1 Again, with reference to the separate Key Stage Review paper, some of the key points which arose follow. Work will now progress to set out in more detail the arrangements and responsibilities for contract management during the operational phase, which is some 18/24 months away. The development and early completion of a user manual will be a key element of this and will facilitate continuity.

## **7. CONCLUSION**

Reaching Financial Close represents a key milestone in the Project. The focus now turns to the actual building of the schools and the management thereof and this will inevitably present its own suite of challenges.

## **8. RECOMMENDATIONS**

**The Committee is invited to note the status of the Project.**

.....  
**Chief Executive**

**Date : 29 May 2007**

### **LIST OF BACKGROUND PAPERS**

1. Project Files \*\*

\*\* Not for publication by virtue of Paragraph 9 of Part 1 of Schedule 7a of the Local Government (Scotland) Act 1973.

## FALKIRK COUNCIL

### EXTRACT OF MINUTE of MEETING of the POLICY AND RESOURCES COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on TUESDAY, 12 JUNE 2007 at 10.30 AM.

#### PR03. NEW COMMUNITY SCHOOLS - ST MUNGO'S RC HIGH SCHOOL ACCESS OFF A9

There was submitted report (circulated) dated 5 June 2007 by the Director of Development Services detailing the main options for the location, form and layout for the proposed new access from the A9 to the new St Mungo's RC High School.

Councillor Gow, seconded by Councillor Nimmo, moved that the recommendations detailed in the report be approved.

By way of an amendment, Councillor Alexander, seconded by Councillor Kenna, moved that:-

- (1) Committee agree to consult with staff, school boards and pupil councils at St Mungo's and St Francis schools on the options before Committee;
- (2) Officers arrange for a site inspection for members before a final decision is taken;
- (3) Community Services be asked to conclude their work on the configuration of the Sunnyside playing fields, and
- (4) Committee make the appropriate decision once all of the aforementioned works and consultations are complete.

On a division, 4 members voted for the Amendment and 3 voted for the Motion.

Accordingly, **RESOLVED** in terms of the Amendment.



**FALKIRK COUNCIL**

**Subject: NEW COMMUNITY SCHOOLS – ST MUNGO’S RC HIGH SCHOOL  
ACCESS OFF A9**  
**Meeting: POLICY AND RESOURCES COMMITTEE**  
**Date: 12 JUNE 2007**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**1. INTRODUCTION**

- 1.1 In terms of the Community Schools Project, the Gateway Consortium will be building four new high schools within the Council area being Denny High School, Falkirk High School, Grangemouth High School and St Mungo’s High School. Gateway will not be carrying out off site road works associated with the new schools which shall be the responsibility of the Council. Such off site road works cover items such as footway and cycling infrastructure, traffic calming and, in some cases, significant junction improvements.
- 1.2 In the particular case of St Mungo’s High School, the detailed planning permission for the new school contains a condition requiring the creation, by the roads authority, prior to the opening of the new school, of a new access from the A9. This report considers the main options for the location, form and layout of such a new access that have been the subject of an extensive feasibility study.

**2. BACKGROUND**

- 2.1 In total 10 options were considered as part of the feasibility study for access from the A9 to the new St Mungo’s High School. The options have varied in cost from approximately £258,800 for a signal controlled junction to £958,425 for a four arm roundabout.
- 2.2 There is no straightforward solution as the following issues must be taken into account:
- **New St Mungo’s High School** – up to 20 school buses require to gain access to the school from the A9 at both morning drop off and end of day pick up times. In addition, the approach adopted will require to safely accommodate staff, visitor and parent traffic to and from the school;
  - **St Francis Primary School** – St Francis Primary School is located across Merchiston Avenue from both the existing and new St Mungo’s High Schools. At the beginning and end of the primary school day there are considerable demands for staff access and egress and parent drop off/pick up;
  - **Pedestrian and Cycling Infrastructure** – as part of the Council’s Safer Routes to School policy, infrastructure requires to be in place to encourage pupils and staff to walk and cycle to school.

- **Merchiston Road Housing Development** – associated with the provision of the new St Mungo’s High School there is an area of land at the junction of Merchiston Road and Merchiston Avenue that will be sold by the Council for development as a housing site. In order to allow the anticipated receipt to be realised, it is hoped that encroachment of off site roads works onto this area can be avoided. The road system put in place also requires to take account of the demands of additional housing in this area.
- **Dollar Industrial Estate** – under Falkirk Council’s Local Plan (finalised Draft (Deposit Version)) this site is affected by Policy EP3, Existing Business and Industrial Areas with Potential for Redevelopment. Policy EP3 states that:  
*“(1) Within the business and industrial areas with potential for redevelopment identified on the Proposals Map, the Council will consider favourably proposals for comprehensive redevelopment for other uses which:*
  - *are appropriate in terms of the character of the surrounding area;*
  - *are satisfactory in terms of environmental, access, traffic generation and other detailed considerations; and*
  - *comply with other Local Plan policies.**Pending any such redevelopment, use of these sites for Class 4, 5 or 6 development will continue to be supported.*  
*(2) Changes of use or redevelopment of other business/industrial land or premises within the Urban Limit which are not safeguarded under Policy EP2 may be permitted subject to amenity, environmental, access, traffic generation and other detailed considerations.”*

A relevant consideration is, accordingly, whether the road layout adopted would diminish the potential for future development within this area or require further road works to be carried out at a later date to support future development.

### 3. PROPOSED OPTIONS

- 3.1 As mentioned above, 10 options were considered as part of the feasibility study stage. These 10 options, through development and refinement, distilled down to the following four options.

#### A. Signal Controlled Junction

This option, shown on Plan A, involves a 3-arm signal controlled junction being provided with pedestrian phasing. This would link the A9 directly onto Merchiston Road. The A9 would require to be widened to accommodate the requirement for two lane approaches on that road.

Merchiston Road (south) would be closed off to vehicular traffic at the Tophill Entry Junction with the length of remaining road maximised to facilitate vehicles dropping off and picking up children. The proposed housing access could be accessed from this length of road. Both Merchiston Road north and south would require to be realigned further east to accommodate the required traffic signal layout on Merchiston Road.

Although this is the cheapest option, estimated between £342,000 and £438,500, it would require land from the housing site and St Francis Primary School to realign the road. Traffic engineers are also concerned at the short queue length on Merchiston Avenue, with two minor roads feeding into this road. At the busiest periods this could

lead to blocking of the carriageway. There is also a concern that the signals will cause further congestion on the A9 due to the pedestrian phase and the short stacking lane.

This option would exclude any potential development at Dollar Industrial Estate without substantial further road works being carried out.

**B. 3-Arm Roundabout with Additional Parking (St Francis)**

This option, shown on Plan B, involves a 40 metre diameter, 3-arm roundabout located west of Merchiston Road / Merchiston Avenue junction. The estimated cost of this junction is between £644,000 and £837,350.

Access from the housing estate and the primary school would converge on Merchiston Road, close to the access/egress of the roundabout.

This option would exclude any potential development at Dollar Industrial Estate without substantial further road works being carried out.

**C. 50 Metre ICD 4-Arm Roundabout**

This option, shown on Plan C, involves a 50 metre diameter roundabout located about 50 metres southwest of Merchiston Road/Merchiston Avenue junction and offset approximately 20 metres west of the A9 in the existing playing fields. The estimated cost of this junction is between £745,000 and £958,425.

This option requires significant realignment of the A9 and Merchiston Avenue approaches and therefore would require significant land take from Sunnyside Playing fields.

This option would exclude any potential development at Dollar Industrial Estate without substantial further road works being carried out.

**D. Revised Merchiston Roundabout**

This option, shown on Plan D, involves the addition of a fourth arm to the existing Merchiston Roundabout. The estimated cost of this junction is between £580,000 and £744,000.

The existing Falkirk Northern Distributor Road (FNDR) south approach would require to be realigned and tie into the west side of Merchiston Roundabout. This realignment would be required to create a safe angle of approach for traffic into the roundabout. The realignment would have to take place through the Sunnyside Playing Fields, which would affect one of the pitches.

This option has the benefit that it reduces any conflict between the traffic for the schools, the housing site and any potential development that may take place at Dollar Industrial Estate. The cost includes the construction of a car park within St Francis Primary School, a cycleway north and south along Merchiston Road, a controlled pedestrian crossing on the A9 and a separate access to the housing site on Merchiston Road south.

The disadvantage of this proposal is that it would impact on Sunnyside Playing Fields as noted above. The design shows the minimum amount of land take required. Consultation has been carried out with Community Services given the impact on the playing fields.

Several options are being examined amending the layout/size of the pitches and also the potential acquisition of land adjoining the playing fields to compensate for the loss of pitch area although this could be problematic.

Option D is the option preferred by the roads engineers, Planning, the School Co-ordinator for St Mungo's High School and St Francis Primary School. It is also the only solution that addresses all the issues raised in para 2.2 above.

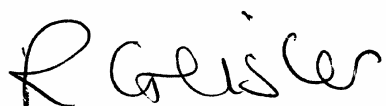
#### **4. POLICY, FINANCIAL, LEGAL AND PERSONNEL IMPLICATIONS**

- 4.1 The proposed junction improvement at St Mungo's High School is one of the off site road works associated with the Community Schools Project and in this case the development of a new St Mungo's High School. It will contribute towards the achievement of the Council's educational, economic, Local Plan and transport policies.
- 4.2 As part of the planning conditions contained in the Detailed Planning Permission for the development of the new St Mungo's High School, this junction requires to be operational prior to the school opening.
- 4.3 The Council will require to apply for Planning Permission for the works to create the proposed junction.
- 4.4 The budget allocation for this project is £580,000.

#### **5. RECOMMENDATIONS**

##### **5.1 It is recommended:**

- (a) that officers are authorised to take forward Option D detailed above as the preferred option, finalise the detailed design for Option D and thereafter submit an application for Planning Permission for Option D; and
- (b) that, if Planning Permission is granted for Option D, the Director of Development Services is authorised to take all necessary steps to take forward the construction and completion of Option D.



.....  
Director of Development Services

Date: 5<sup>th</sup> June 2007



Contact Officer: Julie Cole, Tel. 01324 504727

## **LIST OF BACKGROUND PAPERS**

### **Feasibility Drawings**

Anyone wishing to inspect these documents should contact Julie Cole on 01324 504727



**FALKIRK COUNCIL**

**Subject : ANNUAL ACCOUNTS 2006/07**  
**Meeting : FALKIRK COUNCIL**  
**Date: 27 June 2007**  
**Author : DIRECTOR OF FINANCE**

**1. INTRODUCTION**

In terms of the Local Government (Scotland) Act 1973 and the Local Authority Accounts (Scotland) Regulations 1985, Members are required to receive formal submission of the Unaudited Annual Accounts of the Council for the financial year ended 31 March 2007.

**2. RECOMMENDATION**

**That Members note the formal submission of the Unaudited Annual Accounts to the Controller of Audit by the 30 June 2007 deadline.**

**Director of Finance**

**Date : 8 June 2007**

**LIST OF BACKGROUND PAPERS**

1. 2006/07 Unaudited Annual Report & Accounts

Any person wishing to inspect the above background papers should telephone Falkirk (01324) 506300 and ask for Mr A Jannetta.



**FALKIRK COUNCIL**

**Subject: FALKIRK COMMUNITY STADIUM LTD**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27<sup>TH</sup> JUNE 2007**  
**Author: CHIEF EXECUTIVE**

**1.0 INTRODUCTION**

- 1.1 This report updates Members on discussions between Falkirk Community Stadium Limited (FCSL) and Terrace Hill (Falkirk) Ltd (THFL) with regard to proposed developments at Falkirk Stadium. The report specifically asks Council to consider a range of requests from FCSL in its roles as shareholder and landlord. FCSL seeks shareholder consent to enter into a development agreement as set out in a revision to the Heads of Terms previously approved by Policy and Resources Committee. These will be made available to Members under separate confidential cover due to the commercially sensitive information contained within them. In addition, FCSL seek shareholder approval of their 2007 business plan which has been updated to reflect the changes in operating arrangements as a consequence of the proposed developments within the revised Heads of Terms. The Council also has a landlord interest in the site and this report seeks approval to add ancillary retail to the range of approved uses thereby enabling the potential development of a health and fitness centre. The Council is asked to grant a development sub lease or partial assignation to THFL. The drawing attached as Appendix 1 shows the proposed layout for the development. The report also considers a request from FCSL to enter into a contract of excambion to facilitate the proposed development of the Indoor Football Centre and to enable THFL to develop an area of ground in the Council's sole ownership. Finally, the report seeks approval to vary the terms of the financial arrangements between the Council and FCSL.
- 1.2 As well as the Heads of Terms with THFL this report seeks shareholder and landlord approval for Heads of Terms between FCSL and South Stand Development Company (SSDC), a subsidiary of Falkirk Football Club (FFC) to facilitate the development of a South Stand and provide scope for a commercial leisure development attached to the rear of the stand.

**2.0 BACKGROUND**

- 2.1 In March 2005, Members approved the FCSL business plan and in doing so agreed that private investment would be sought to facilitate the development of additional stands and corner pods to continue the development of the stadium. Members of the Policy & Resources Committee at their meeting on 4<sup>th</sup> April 2006 considered the process by which a preferred development partner had been identified and at its meeting on 17<sup>th</sup> October 2006 approved Heads of Terms between FCSL and THFL. These Heads of Terms have been refined and the final version is presented for further approval.
- 2.2 FCSL prepared a development brief that sought to develop the stadium footprint to provide additional capacity through the provision of additional stands and the creation of corner pods to infill the areas between the stands. The brief also offered scope for developers to make additional suggestions for further appropriate development on the site.

FCSL has been working with THFL to agree Heads of Terms that set out a programme for development and offer the best return to FCSL for future development in the company.

- 2.3 When FCSL was established, the Joint Venture Agreement between the company and Falkirk Council identified that shareholder consent was required for certain actions beyond those that had been set out in the original agreement. The development of the additional stands and corner pods fall within this category albeit they were always envisaged as future strands of the Stadium vision and this report asks Members to agree that the proposed lease to SSDC fits with the original company objectives.
- 2.4 The Council also has an interest as landlord in terms of the ground lease with FCSL and this report seeks approval for a sub lease to be developed between SSDC and FCSL to facilitate the development of a South Stand similar in size and scale to the current North Stand with commercial floorspace.
- 2.5 The final request from FCSL concerns land in sole Council ownership immediately adjacent to the area leased by them which they would like to exchange with the Council for land within the FCSL lease in a contract of excambion. The Council has planning consent to develop an indoor football centre on land currently leased to FCSL as part of the ground lease. **sport**Scotland has offered the Council £3m to develop the centre and a separate report on this proposal will be considered by Members in due course. In the event that Members approve the proposal but the centre does not ultimately proceed, then the Council would be free to develop the site. As a consequence of the exchange, FCSL would no longer have an interest or control over future use of that part of the overall site.

### **3.0 SHAREHOLDER'S CONSENT**

- 3.1 Under the terms of the Joint Venture Agreement, the Council, as shareholder, is required to give consent to various activities which FCSL may wish to carry out. In the circumstances of the current proposals, consent is required to:
  - 3.1.1 sell, transfer, lease, assign or otherwise dispose of any part of FCSL's undertaking, property or assets or enter into any contract other than in the ordinary and proper course of business.
  - 3.1.2 take any interest in land or agree to any variation, termination, amendment or modification to the terms of the ground lease or the footballing lease.
  - 3.1.3 carry out any development of the site other than the works (which was the development of the west stand)
  - 3.1.4 approve the business plan
- 3.2 The Heads of Terms between FCSL and THFL propose various phases of development:-

▪ Zones A and B	development of two north pods either side of the north stand. The north west pod (Zone A) is proposed as a health and fitness Centre and the north east pod (Zone B) as a hotel;
▪ Zones C and D	development of two south pods, both for use as office buildings;
▪ Zone E	development of the east stand including office space;

- Additional zones comprises the development of a waterside restaurant near the northern end of the site and the development of a garden centre on land currently in the sole ownership of the Council, hence the request for the contract of excambion. It had been envisaged that these additional developments would take place at the end of the project after the stadium had been completed. However an earlier opportunity may exist and FCSL have asked the Council to give specific consideration to the request now.

- 3.3 Whilst the Heads of Terms set out a proposed phasing of development, these may be run in tandem subject to agreement of both parties. The Heads of Terms allow for FCSL to receive payment for each phase of development or, at its discretion, to share in the project through sharing equity and having a return at some future point in time.
- 3.4 The proposals set out in the Heads of Terms represent the best negotiation available at this time and the FCSL Board have recommended them to both shareholders, the Council and Falkirk Football Club. In financial terms, FCSL will receive around £4.9m for the sub-lease of the land to accommodate the pods and stands set out in the heads of terms subject to further detailed surveys on costs. The Heads of Terms will form the basis of detailed legal agreements to be entered into between FCSL and THFL.
- 3.5 Members are asked to consider a separate proposal from SSDC to facilitate the construction and delivery of the South Stand. These heads of terms propose that FCSL lease SSDC the area of the south stand and the area immediately adjacent for future commercial / leisure development. This would be funded by persons associated with FFC, though a contribution is envisaged from FCSL. It is hoped this will enable development to take place next year.
- 3.6 The revised Business Plan recognises that the company will no longer provide a health and fitness centre itself (for the reasons outlined in para 3.7) and that the growth in the business will focus on increasing use of the five a side football facilities, the continued development of the conference centre including consideration of the vacant first floor space for additional larger capacity spaces. In addition, the income from rents and service charges within the West Stand is critical to the financial profile. The development of additional stands is critical to the company objectives and the plan proposes that FCSL make a direct financial contribution to the development of the South stand and considers investment in the East Stand at a point in the future. There are tax implications outlined in the business plan that need to be fully explored and the potential rollover relief available to FCSL and companies in the same tax group.
- 3.7 As previously stated, the provisions of the Joint Venture Agreement between the Council and FCSL requires each shareholder to approve the proposals and the revised business plan. In considering the request for shareholder consent, Members may want to have regard to the original project objectives. These included a desire to complete a community stadium made up of 4 stands and 4 corner pods encompassing a range of uses including those specified in the proposals. At the time of the development of the Joint Venture Agreement the provision of a health and fitness centre was intended to be accommodated within the West Stand and delivered by FCSL itself. However, the opportunity for an enhanced health and fitness facility incorporating a swimming pool and associated retail was deemed by the FCSL Board to be of greater community value and therefore it is being

recommended to shareholders. Whilst the opportunity to provide additional activities is attractive, it is suggested that the Council emphasise the desire to ensure that the overall provision is as good in terms of quality of design, layout and programme to that originally envisaged. The health and fitness centre provides further opportunities for residents to engage with the stadium and to feel a sense of ownership and pride in the developments there. The proposals to develop the South Stand outwith the Terrace Hill agreement gives FCSL more control over the timing of its delivery and the involvement of the other shareholder, FFC, and SSDC, which will be set up solely for the purpose of delivering the stand, is to be welcomed and helps ensure another stand will be available for use within a reasonable timeframe. It is recommended therefore that Members should agree that shareholder's consent be granted.

#### **4.0 LANDLORD'S CONSENT**

- 4.1 Under the terms of the ground lease between Falkirk Council and FCSL, certain uses are already permitted within the Stadium footprint. These include the offices, leisure and hotel as outlined in the proposals from FCSL /THFL. Additional landlord consent is requested for the waterside restaurant and the ancillary retail within the health and fitness centre. The addition of 15,000 ft<sup>2</sup> of ancillary retail is a necessary component of securing a prestige health and fitness facility that, together with the waterside restaurant, will complement the uses for the stadium as a whole and as a result it is reasonable to accede to these requests for landlord's consent.
- 4.2 In the report considered by Policy and Resources Committee in October 2006, agreement was given to FCSL to provide for the additional uses envisaged in the south stand. This report now seeks formal approval for the development of the south stand by SSDC. The development of the rear of the stand will follow later than the stand itself, however FCSL will want to know that the Council as landlord approves the principle of development. FCSL ask that the provision for additional rent that would normally be associated with this development be re-phased in line with other requests dealt with later in the report.
- 4.3 Insofar as the transfer of land to THFL by FCSL is concerned, if Members are minded to approve the development proposals generally, then a sub lease or partial assignment of the ground lease would be required to take them forward. These would impose development obligations on THFL. Although these alternatives achieve essentially the same results, Members should be aware that the latter puts the Council in a direct contractual relationship with THFL. The Council would need to ensure that FCSL was in a position to regulate the corresponding development obligations in the Development Agreement between FCSL and THFL.
- 4.4 Insofar as the sub lease to SSDC by FCSL is concerned, if Members are minded to approve the development proposals generally, further dialogue would be needed with FCSL and SSDC to agree the Council implications for Heads of Terms ensuring consistency with the current FCSL lease arrangements. Negotiations would be subject to agreement of satisfactory terms and conditions consistent with Best Value requirements.
- 4.5 In addition, FCSL has proposed that the Council establish a Deed of Community Burdens over the whole site which would have the effect of regulating the development carried out, together with the responsibilities for maintenance of common parts and protection of the amenity of the site. As currently proposed, this deed would appoint FCSL to oversee the management of the deed and the obligations which it imposes on the various present and future occupiers of the site. Whilst this is an effective way of ensuring adherence to the site conditions, Members should be aware that the Council may, as owner of the land in terms



of the ground lease, have a residual responsibility to enforce this deed if the proposed management arrangements are changed or dissolved.

- 4.6 Notwithstanding the terms of Section 6 of this report and the Members' decision thereon, there is potential for the development of land in Council ownership lying adjacent to, or within the footprint of, the existing ground lease. Some of these opportunities have been unlocked by recent changes in the emerging structure and local plans. The Council should seek to make it a condition of any consent, that all necessary rights of access are secured with any variation to the existing ground lease which would enable the Council to develop such opportunities.

## **5.0 REQUEST TO VARY FINANCIAL ARRANGEMENTS**

- 5.1 The Council has advanced three loans amounting to a total of £5.095m to FCSL. The first loan of £2.0m was made in 2003 having received capital expenditure consent from the Scottish Executive. The loans carry varying rates of interest, are all long term, with final repayment due in 2029. Following earlier decisions of the Council to defer the payment of interest for three years until December 2007, the interest due has been added to the amount advanced. By December of this year, the amount owed will have risen to c£5.7m.
- 5.2 FCSL now requests that the original repayment period of 25 years be extended to 40 years, aligning repayment with the Company's fixed asset depreciation period. Moreover, FCSL requests a two year extension of the deferred repayment period to December 2009. Interest due but not paid would continue to be added to the principal outstanding.
- 5.3 Unlocking development value from the existing site is critical to the financial future of FCSL. The ground lease between FCSL and the Council provides for additional rent of 10% of the net income generated from occupiers or uses to accrue to the Council. This will be a significant sum and FCSL have requested that this be paid to the Council over an extended 20 year period.
- 5.4 FCSL has undertaken to pay other sums to the Council amounting to £0.437m in respect of design team charges for professional services. It has not been possible previously to settle this debt and FCSL now requests time to pay this sum in phased payments between now and 2012.
- 5.5 The business plan highlights a steady growth in turnover despite many challenges which have emerged since the company was formed. Management Accounts for the 11 months to May 2007 indicate the company achieved a profit of c£0.07m before interest, which has been accrued within the Profit & Loss Account, although not paid because of the deferred period.

## **6.0 REQUEST FOR CONTRACT OF EXCAMBION**

- 6.1 FCSL have requested a contract of excambion which would see the Council swapping a piece of land to the north of the secondary access road (marked on plan attached as Appendix 2) for the area of ground currently under lease to FCSL for which the Council has secured planning consent for an indoor football centre. If the exchange were to happen, FCSL would then dispose of the area of land to THFL to facilitate the development of a garden centre. Until recently the land was contained within the green belt. The recent changes in the planning status referred to above mean that the entire site between the land leased to FCSL and the rail line is now potentially developable in uses compatible with the overall stadium ambitions and relevant planning policies. The Council

had not envisaged developing the land at this time. It has identified it within the HELIX bid as an area that might be developed as sports pitches and recreational land including a skate park. The proposals for a garden centre might well be accommodated comfortably within the HELIX vision in this location.

- 6.2 The District Valuer was engaged to consider the respective values of the site for the indoor football centre currently leased by FCSL and the section of Council land required by FCSL to accommodate the garden centre proposal (extending to 10 acres) from THFL. The District Valuer has valued both sites, assuming availability of all necessary statutory consents to facilitate these developments in acceptance terms. A preliminary valuation indicates that the Council's site is of greater value, therefore the proposed contract of excambion would fail to provide full market value to the Council at this time. If the Council were minded to proceed with the deal at this stage, external legal advice indicates that the contract would be contrary to State Aid rules.
- 6.3 We do propose that the Council considers its position with regard to the future development of the site and that officers be instructed to undertake further work to consider how the site might be developed in future taking account of the development of the stadium, the HELIX bid and the Falkirk Gateway site. Securing the rights of access mentioned at 4.6 would be integral to this future development.

## **7.0 PRE-EMPTION RIGHTS**

- 7.1 THFL have requested pre-emption rights for the land in Council ownership. This would mean that they would have preferred developer status in any plans the Council had for taking forward the land in its ownership. There may be financial and operational benefit in taking such an approach. However, it has been raised with officers via FCSL in the last few days and it has not been possible to fully evaluate it in time for the Council meeting. It is recommended that Council instruct officers to consider this request in more detail and report back to a future meeting ideally in partnership with the proposals for future development of the land outlined above.

## **8.0 INDOOR FOOTBALL CENTRE**

- 8.1 The Council submitted a bid for an indoor football centre as part of **sport**Scotland national and regional facilities programme in 2004. The bid provides for a full size indoor football pitch and associated changing and support accommodation. The total cost is estimated at £8m and an offer of award of £3m was announced in August 2004. Planning consent was granted for the centre in March 2006 and a final business case has been developed that shows an annual operating deficit of circa £0.25m. Further discussions between the SFA and **sport**Scotland have been ongoing to reduce the height of the building and bring the costs down. It had been hoped that FFC might invest in the centre given the proximity to the stadium and the extent of the children's and youth programmes operated by them. However, they have indicated that they would be regular users of the centre and could commit to an extensive programme although they do not have capital funds available for investment. Similarly FCSL, the other potential development partner, is focussed on the development of the stadium more generally. The other clubs in the area are interested in booking time in the centre however they are not able to contribute to the capital cost. It is suggested that officers bring a report on the indoor centre to the Policy and Resources Committee before a final decision is reached on whether to proceed with the proposal or not.

## 9.0 LEGAL IMPLICATIONS

- 9.1 The joint venture agreement between Falkirk Council and Falkirk Football Club which led to FCSL being established set out specific areas of business requiring shareholder consent. These largely concern any new developments or significant changes to the approved business plan. Similarly, the existing ground lease details what is currently permitted in terms of the lease and what proposals require additional consent.
- 9.2 The Council has assessed its legal powers in respect of involvement in the stadium project at each stage of the project. Council has also been cognisant of the risks involved throughout the process and has assessed those risks against the benefits deriving from such a high profile, ambitious and imaginative development. Members will wish to revisit that advice which is contained in reports to Council on 18 March 2003, 5 May 2004 and 2 March 2005. In summary, the advice:
- (a) outlined the powers available to the Council in terms of s.20 of the Local Government in Scotland Act 2003 (the power to advance well being) and s.15 of the Local Government and Planning Act 1982 (the duty to ensure that there is adequate provision of facilities for people living in the area to indulge in, among other things, recreational and sporting activities). Those powers remain relevant to the Council's considerations in terms of this report, and
  - (b) highlighted the need, not to avoid risk entirely, but to assess it properly, acknowledge and measure it and consider whether it is justifiable in terms of the community and other benefits it is expected to deliver.
- 9.3 A further issue for Members to be aware of is that of State Aid. This is where state resources (which include the resources of local authorities) are used to provide financial aid to entities undertaking commercial activities. European law regulates the provision of such aid if it confers a commercial advantage on a company. It is important, therefore, to assess whether, in re-profiling FCSL's repayments, a financial advantage is being conferred or whether the re-profiling would be acceptable to a creditor and investor in FCSL from the private sector, in which case there is no State Aid. The Director of Finance has concluded that a reasonable creditor and investor in an equivalent position to the Council would consider that an adjustment to repayment schedules in the circumstances outlined in this report would be a necessary and proportionate step in securing ultimate payment while also creating an environment in which the project's vision can be delivered.
- 9.4 The existing ground lease and the various sub leases are all essentially contractual documents to which the Council is a party in some shape or form. The proposed development plans have implications for these documents which must be dealt with by formal variation. It is also imperative that any new subleases or partial assignments of the ground lease are done in such a way as to ensure consistency and uniformity of conditions. In addition, FCSL is proposing that the Council implement a Deed of Community Burdens in terms of the Title Conditions (Scotland) Act 2003, which could be an effective way of regulating the responsibilities of the various occupiers on the larger site. Again care will need to be taken to ensure that the terms of this Deed are compatible with the existing and future arrangements.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 There is a risk involved to the Council in acceding to the debt re-profiling requests outlined in Section 5; that the debt is not repaid or is not repaid in full. Equally, there is a risk in not acceding to it; that an inflexible approach to repayment brings the company into immediate financial difficulty putting at risk the entire venture and frustrating delivery of the Council's original vision which informed involvement in the joint venture. The Director of Finance has assessed that the request for a further 2 years repayment deferment of the debt due by FCSL at this stage is justifiable and proportionate with a view ultimately to securing recovery while preserving the opportunity for FCSL to complete its overall development plans, recognising that those plans are consistent with the original objectives determined by Council when it resolved to participate in the joint venture. Moreover, the Director of Finance notes that FCSL remains a fledgling business and the proposal from THFL represents a real opportunity to significantly improve FCSL's financial position. In addition, it represents an opportunity to reduce risk through generating substantial income and enabling them to meet their future financial obligations to the Council.
- 10.2 Turning to the other requests relating to extending the repayment term to 40 years and repaying the additional rent over twenty years, the Director of Finance considers that these requests be held over for further consideration dependent upon progress with the development of the site.
- 10.3 With regard to the final request outlined in para 5.4, the Director of Finance recommends that a phased payment arrangement would be acceptable, subject to agreement between the parties.

## **11.0 CONCLUSION**

- 11.1 FCSL has made significant progress in the development of Falkirk Stadium. It is recognised as an iconic structure that embodies the ongoing transformation of the Falkirk Council area. Residents and visitors have identified it as a visible symbol of the area's ambition and aspiration. There are a range of opportunities for community engagement in the Stadium already and the plans outlined in this report will provide a range of additional leisure and employment opportunities.
- 11.2 FCSL has made good progress in agreeing the Heads of Terms with Terrace Hill (Falkirk) Ltd including appropriate safeguards with regard to parent company guarantees, phasing and management of risk. The granting of shareholder's consent is reasonable and straight forward. The request for landlord's consent with regard to the additional ancillary retail request and the SSDC proposals for the south stand are consistent with the original visions for the development of the stadium and it is therefore recommended that landlord's consent be granted. To the extent that the proposals require consents from the Council as planning or licensing authorities, such consents will be subject to separate applications which will be dealt with wholly in accordance with their respective legislative frameworks.
- 11.3 The request for a contract of excambion has proven particularly difficult and it is suggested that whilst this route is not currently advisable, Officers should examine alternative routes in considering options for the development of Council land. Likewise a final decision is needed on whether to proceed with the proposed indoor football centre. The offer of £3m toward the cost is significant however this has to be weighed against the overall cost and the community benefits associated with the development.

11.4 Members are asked to acknowledge the progress made to date and to ask that further reports are submitted in due course.

## **12.0 RECOMMENDATIONS**

### **12.1 It is recommended that Members:-**

- i. grant shareholder's consent to the proposals outlined in this report in line with the provisions of the Joint Venture Agreement between Falkirk Football Club and the Council;
- ii. grant landlord's consent for the development sub lease or partial assignation to Terrace Hill (Falkirk) Ltd;
- iii. grant landlord's consent for the development of the South Stand subject to conclusion of negotiations on the Heads of Terms between FCSL and SSDC.
- iv. extend the list of permitted uses in the ground lease between the Council and FCSL to include ancillary retail associated with the health and fitness centre and a waterside restaurant;
- v. approve deferment of loan repayments until December 2009
- vi. agree to the principle of re-phasing as detailed in Section 10.3
- vii. instruct Officers to bring further reports on options for development of the land owned by the Council adjacent to the stadium;
- viii. instruct Officers to report to Policy and Resources Committee on the proposals for the indoor football centre;
- ix. authorise the Chief Executive to agree to any consequential or associated amendments required to the ground lease or any other agreement or document to give effect to Members' decisions;
- x. instruct Officers to provide updates on progress.

.....  
Chief Executive

Date: 21 June 2007

Contact Officer: Mary Pitcaithly Ext: 6002

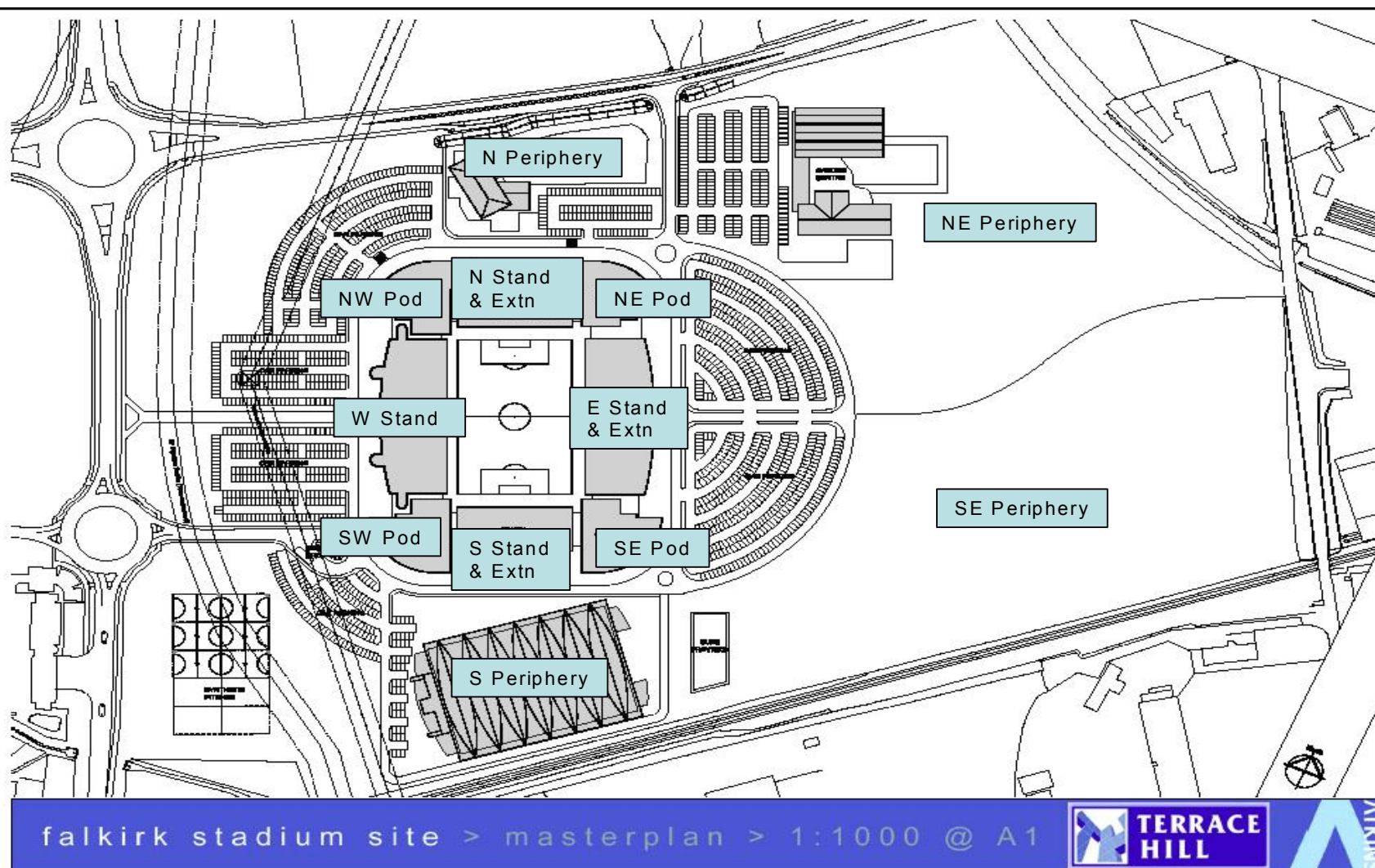
### **LIST OF BACKGROUND PAPERS**

1. # Letter from FCSL incorporating Business Plan dated 13 June 2007.
2. # Heads of terms between FCSL and Terrace Hill (Falkirk) Ltd.
3. # Draft Heads of Terms between FCSL and South Stand Development Co Ltd

Anyone wishing to inspect the background papers listed above should telephone 01324 506002 and ask for Mary Pitcaithly.

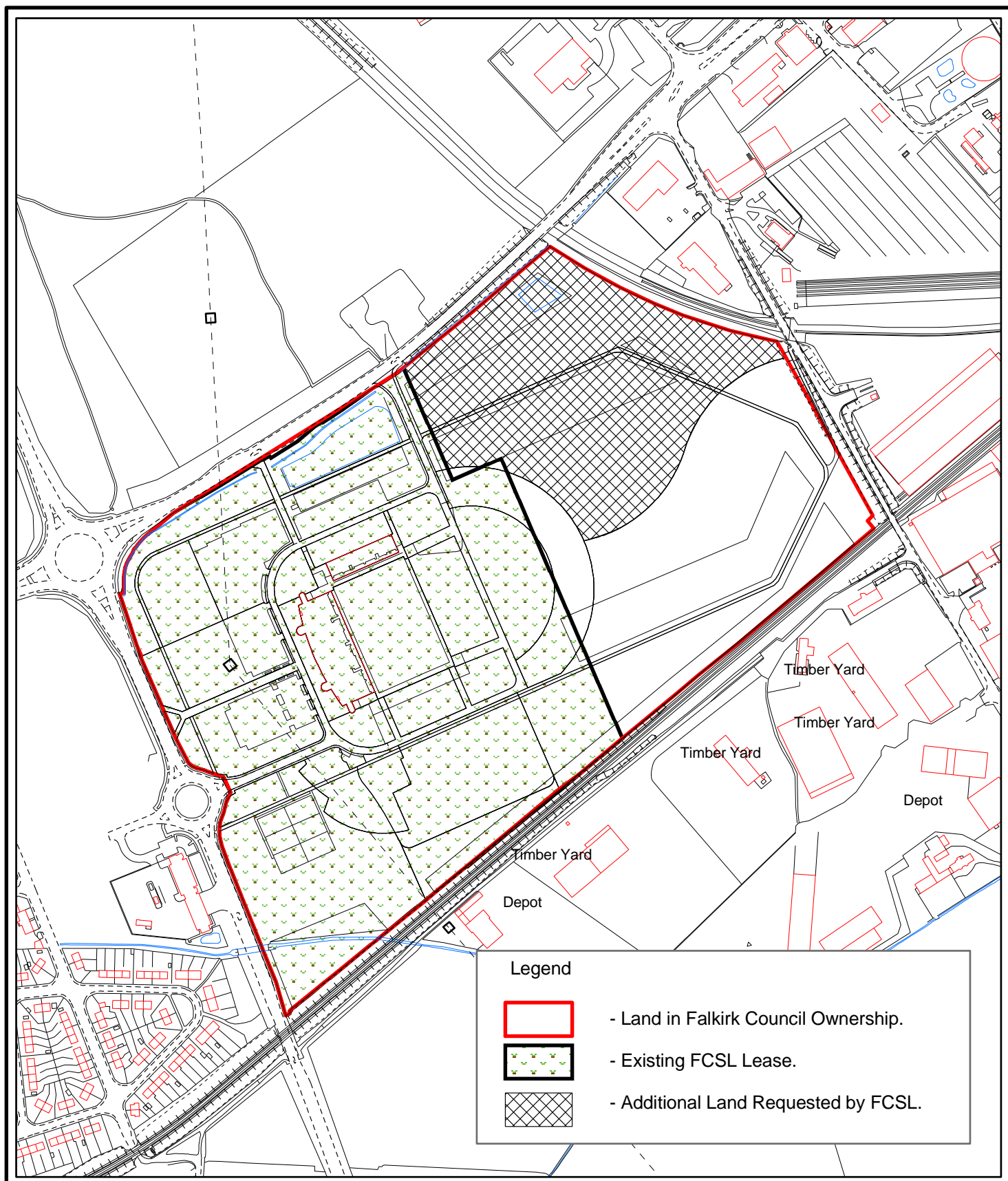
# Not for publication by virtue of Paragraph 9 of Part 1 of Schedule 7a of the Local Government (Scotland) Act 1973.











## Falkirk Community Stadium, Westfield, Falkirk.



Falkirk Council

Community Services  
The Falkirk Stadium, Westfield, Falkirk FK2 9DX  
Telephone: 01324 590900 Fax: 01324 590901

Scale: 1:5,000



Based on Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office (HMSO) Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Falkirk Council. Licence No. 100023384 (2007).



**FALKIRK COUNCIL**

**Subject: THE DATA PROTECTION ACT 1998 AND HOUSING ALLOCATION LISTS**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27 JUNE 2007**  
**Author: DIRECTOR OF HOUSING & SOCIAL WORK SERVICES**  
**ACTING DIRECTOR OF LAW AND ADMINISTRATION SERVICES**

**1. INTRODUCTION**

- 1.1 Prior to the May election information on housing allocation lists had been available to Members as a matter of course. In light of prevailing legal opinion that this practice was questionable under the Data Protection Act 1998, which situation would have been exacerbated by the introduction of multi-member wards, the decision was taken to cease this practice. This report explains the reasons for the decision and looks at alternative ways of providing Members with information to allow them to perform their civic duties whilst protecting an individual's personal data.

**2. HOUSING ALLOCATION LISTS – PREVIOUS PRACTICE**

- 2.1 Housing Services maintain for management purposes, separate lists showing offers of tenancies made and accepted. These lists reveal the names and addresses of the applicants and the properties they have been offered or have accepted. There is also a deal of sensitive information such as family circumstances (e.g. two parent family children under 17; one person household aged over 60; childless couple one or both over 60; one parent family children under 17). The applicants' categorisation relative to their priority and points is also revealed e.g. "homeless", "waiting list", "transfer", "moving on", "medical". Details of this nature would be considered sensitive personal data under the Data Protection Act. Sensitive personal data is given greater protection under the Act.

The lists are prepared according to the local housing office areas. Historically these have been available to local Councillors as a matter of course. The concern was that this practice was not permissible. The concern arises from a number of factors :-

- (1) The legal argument has hardened against the practice of allowing members access to allocation lists as a matter of course. East Lothian Council have obtained the opinion of Senior Counsel confirming a similar practice as unlawful.

- (2) Communities Scotland are conducting their inspections of Councils across Scotland. Inspection of Falkirk Council is being undertaken at the moment. The Council's practices in relation to housing allocation are likely to be examined as part of this process.
- (3) The unlawful obtaining or disclosure of personal data is a criminal offence under section 55 of the Act. With an increased awareness of data protection officers were anxious about the propriety of the former practice.

### **3. THE DATA PROTECTION ACT 1998, COUNCILS AND COUNCILLORS**

- 3.1 The Data Protection Act (DPA) regulates the holding and processing of personal data, that is, information relating to living individuals. This would include applications for tenancies and similar information which would identify the individual, such as housing allocation lists.
- 3.2 The Council is the "data controller" of such personal data. It is not permitted to disclose personal information to another person otherwise than in accordance with the law (*e.g.* if that other person has a right to receive that information, such as when police officers are investigating a crime) or the data subject (in this case an applicant for a tenancy) has consented to the disclosure to another person.
- 3.3 Fundamental to appreciating the data protection implications is to recognise that there is a distinction between Councillors and the Council as a corporate body. The UK Information Commissioner, who is responsible for data protection, identifies three possible roles.
  - (1) As a member of a committee engaged in the business of the committee.
  - (2) As a representative of the constituents, for example, in pursuing complaints.
  - (3) As a representative or a member of a political party, particularly at election time.

Copies of the Commissioner's compliance advice for elected members (V2, April 2007) and on disclosing of personal information to elected members (V2 April 2007) are attached as appendix 1. The statutory foundations for the Commissioner's guidance is s.56 of the Local Government etc (Scotland) Act 1973.

- 3.4 In the first role, acting as a member of a committee engaged in committee business, the Councillor is considered synonymous with the Council. Therefore, information passed to the Councillor in this circumstance is still considered to be held by the Council, *i.e.* it has not been disclosed to anyone outwith the Council. In such circumstances, the Councillor is in the same position as an officer. So, for example, the information held on behalf of the Council by a Councillor is potentially accessible under Freedom of Information.

- 3.5 In the second and third roles, the Councillor is considered to act independently of the Council as a corporate body. Therefore, passing information to Councillors in these circumstances is disclosing information **outwith** the Council. Therefore, it must be considered if disclosure to Councillors is permitted under the Data Protection Act. This is examined in paragraphs 4 and 5.
- 3.6 Clearly, there is importance in first of all establishing which role a Councillor is performing in any given circumstance. The likelihood is that a Councillor will only be considered as part of the Council in limited circumstances. This would retain some clarity between Council information held by a Councillor and a Councillor's own information. (see page 2 of the Commissioner's guidance on disclosing personal information to elected Members - Members should only be given access to as much information as is necessary to carry out their duties).

In the case of housing allocation lists, these should only be made available to the extent that they are required for any specific business of a committee rather than as a matter of course. Even for members of the Housing and Social Services Committee, there does not appear to be any particular remit to justify the general availability of these lists to such members because the Committee does not decide housing allocations. Particular reference is made to S.20(3) of the Housing (Scotland) Act 1987. This provides:-

*"A member of a local authority shall be excluded from a decision on the allocation of local authority housing, or of housing in respect of which the local authority may nominate the tenant, where (a) the house in question is situated; or (b) the applicant for the house in question resides, in the electoral division or ward for which that member is elected".*

- 3.7 With the introduction of multi-member wards the problem was exacerbated because instead of there being one local member there are multi-members. Therefore any failings in the process would be multiplied. In addition, the information was made available based on housing management areas. There are implications in circulating area based information to Members representing multi-member wards. Wards are not coterminous with housing management areas. For Members to receive information relating to their ward would currently involve making available information not relevant to that ward.

#### **4. ALTERNATIVE INFORMATION**

- 4.1 Circulation of the lists of properties allocated and let ceased at the end of April 2007. Members have made clear their desire to remain involved in the housing allocation process to the extent that the law permits. To enable this to be done the following process is necessary.
- (i) Identify the civic duty or duties that Members wish to perform in relation to housing allocation.
  - (ii). Identify the capacity in which a member is to receive the information ie as part of the Council or as a Councillor in own right.

- (iii) Identify the type of information required to perform that civic duty or duties.
  - (iv) Establish if the information can be released under the Data Protection Act (generally will involve balancing Members' legitimate interests against the individual's legitimate interests).
  - (v) Set out in clear terms the purpose for which the information may be used.
- 4.2** Consultation with Members is necessary to inform this process. From this Member consultation it is proposed that new practices be developed which are compliant with the Data Protection Act. This may involve seeking the advice of Counsel.
- 4.3** Meantime it is proposed that information be provided to Members that will permit local scrutiny and provide a strategic overview of the allocations process.
- 4.4** Local Scrutiny

To allow Members to scrutinise that the allocations policy is being applied correctly it is proposed that the following information is provided:

- The address of the property allocated
- The points level on which it has been allocated
- If, in allocating the property, any of the following policy parameters have been used:
  - has anyone been bypassed to make this allocation?
  - was the property block profiled and allocated accordingly?
  - have social or management points been used to facilitate the allocation?

A person's address is still their personal data. The anonymisation of the information is to protect the individual's personal data. It is part of the balancing between the legitimate interests of Members to scrutinise and the individual's legitimate rights. This practice will be reviewed as part of the consultation process with Members.

#### **4.5** Strategic Information

Officers are keen to share information which will impact on the strategic framework for the allocation of our housing, and which may signpost the direction for any future changes to the allocations policy.

This information may be most relevant to Members of the Housing and Social Work Committee, but could also form part of the Service's performance reporting to the Best Value and Audit Forum.

The type of information which can be provided looks at, and analyses trends in supply and demand for our stock. Specific measures can include:

- Types, numbers and locations of void property
- % of lets to applicants groups
- Reasons for refusal

#### 4.6 Timescales

The provisions of alternative local information will require changes to our IT based performance management framework. These adjustments are not major but do require a translation of information from current housing management boundaries to ward boundaries.

Regular reports on these will be available by mid July.

The strategic information is available now.

### 5. **RECOMMENDATION**

It is recommended that Council:

- 5.1 authorise a consultation process with Members with a view to identifying a permissible civic role to be undertaken by Members in relation to housing allocations in accordance with the process set out in sections 4.1 and 4.2 above; and
- 5.2 note that in the interim local information will be provided in the format given in sections 4.4 and 4.5 above.

.....  
Director of Housing and Social Work

.....  
Acting Director of Law & Administration

Date: 21 June 2007

Contact Officer: Helen Turley, Head of Service on Ext. 0789  
Rose Mary Glackin, Acting Director of Law & Administration on  
Ext. 6076

#### **LIST OF BACKGROUND PAPERS**

NIL





**FALKIRK COUNCIL**

**Subject: LOCAL GOVERNANCE (SCOTLAND) ACT 2004 –  
REMUNERATION, ALLOWANCES AND EXPENSES**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27 JUNE 2007**  
**Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION**

**1. INTRODUCTION**

- 1.1 I have reported to members on 2 previous occasions regarding the remuneration, allowances and expenses regime introduced under the Local Governance (Scotland) Act 2004.
- 1.2 On 16 January 2007, I reported to the Policy and Resources Committee summarising the terms of two draft Statutory Instruments (SI's) which had been issued for consultation at that time, namely:-
  - The Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, and
  - The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007.
- 1.3 At the statutory meeting of Council on 18 May 2007 I reported on the finalised Statutory Instruments and advised that a further SI had been brought in to force which introduced the right for members to join the local government pension scheme.
- 1.4 When considering my report to Council on 18 May 2007, Council agreed its remuneration framework based on 14 Senior Councillor positions, with 8 of the positions to receive remuneration of £20,753 and the remaining 6 to receive remuneration of £17,400. The detail of these positions has now been received from the Leader of the Council and is set out at paragraph 2.2 below for approval.

**2. REMUNERATION FRAMEWORK**

- 2.1 The remuneration Regulations provide for maximum payments of up to £23,179 per annum for senior councillors of which the Council is restricted to a maximum of 14 provided that the total amount paid to all senior councillors does not exceed £270,424.
- 2.2 The decision of Council was to introduce 8 senior councillor positions with remuneration at a rate of £20,753 p.a. and 6 senior councillor positions with remuneration at a rate of £17,400 p.a. The Leader of the Council has subsequently confirmed the following allocation of salaries which is presented for Members' approval.

Senior Councillors - £20,753	Senior Councillors - £17,400
<ul style="list-style-type: none"> <li>• Depute Provost</li> <li>• Convener of Community Health and Safety Committee</li> <li>• Convener of Economic Development Committee</li> <li>• Convener of Education and Leisure Committee</li> <li>• Convener of Environment and Heritage Committee</li> <li>• Convener of Housing and Social Services Committee</li> <li>• Convener of Licensing Board</li> <li>• Convener of Regulatory Committee</li> </ul>	<ul style="list-style-type: none"> <li>• Depute Convener of Community Health and Safety Committee</li> <li>• Depute Convener of Economic Development Committee</li> <li>• Depute Convener of Environment and Heritage Committee</li> <li>• Depute Convener of Housing and Social Services Committee</li> <li>• Convener of Investment Committee</li> <li>• Leader of the main opposition Group</li> </ul>

### 3. ALLOWANCES AND EXPENSES – APPROVED DUTIES

- 3.1 The Local Government (Allowances and Expenses) (Scotland) Regulations 2007 were introduced on 3 May 2007. Members will be familiar with guidance on the Regulations that was issued after the elections. This was based on guidance issued by the Scottish Executive following the report by the Scottish Local Authority Remuneration Committee (SLARC) ‘Review of Remuneration Arrangements for Local Authority Councillors’.
- 3.2 The guidance relates only to the reimbursement of expenses incurred by councillors in carrying out Council business. Travel and subsistence expenses may be claimed for ‘approved duties’, as defined in Section 49 of the Local Government (Scotland) Act 1973.
- 3.3 The Council last approved its list of approved duties at the time of local government reorganisation in 1996. The opportunity has now been taken to review the list of approved duties and an amended list is detailed at Appendix 1.
- 3.4 Reference is made at paragraph 4 of the Appendix to attendance at conferences and seminars. In this regard, it should be noted that work is currently in progress to develop a protocol that will clarify the approval process for requests from members for attendance at appropriate events under this category of approved duties. It is anticipated that this will be presented to a meeting of the Policy and Resources Committee after the summer recess for consideration by members.

#### **4. RECOMMENDATION**

##### **4.1 It is recommended that Council:-**

- i) approves the remuneration framework detailed at paragraph 2.2,**
- ii) adopts the list of approved duties as detailed in the Appendix to the Report, and**
- iii) notes that a draft protocol with regard to attendance at conferences and seminars is in preparation.**

.....  
**Acting Director of Law and Administration**

**Date: 13 June 2007**

**Contact Officers: Rose Mary Glackin Tel. 01324 506076**  
**Iain Tough Tel. 01324 506110**

#### **LIST OF BACKGROUND PAPERS**

Nil

## **APPROVED DUTIES**

### **1. INTRODUCTION**

- 1.1 Allowances are payable for the purpose of an approved duty and in terms of the 1973 Act, approved duty denotes the following:
- Attendance at meetings of the Council
  - Attendance at meetings of any committee or sub committee of the Council, provided such attendance is:
    - (a) as a member of the committee or sub committee; or
    - (b) at the invitation of the committee or sub committee; or
    - (c) expressly authorised by the committee or sub committee or the Council itself
  - The doing of any other thing approved by the Council, or anything of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the Council, or any of its committees or sub committees.

### **2. Council Meetings**

- 2.1 Attendance at meetings of the Council and its Committees or Panels (Sub Committees) to which a Member has been appointed or is otherwise authorised to attend in terms of the Council's Standing Orders.
- 2.2 Attendance at meetings of any advisory or working group established by the Council to which a Member has been appointed for the purposes of, or in connection with, the discharge of any of the Council's functions.
- 2.3 Attendance at meetings of any of the Area Forums set out in the Council's Scheme of Decentralisation.

### **3. Meetings of other Bodies**

- 3.1 Attendance at any meeting of another body to which the Council has appointed the Member or at a meeting associated with that body where the body has authorised the Member's attendance.

### **4. Conferences, Seminars etc**

- 4.1 Attendance at any meeting, conference, delegation, study course or visit where attendance had been authorised in relation to any of the Council's functions or to discuss any matter which relates to the interests of or the inhabitants of the Council's area (or any part of it); subject always to the appropriate approval.

### **5. Visits, Functions and Ceremonies**

- 5.1 Attendance at any meeting, ceremony or function or on a visit to which a formal invitation has been extended by or on behalf of the Council, or to the Council by another public body for the purpose of or in connection with the discharge of any of the Council's functions.

## **6. Constituency and Community Meetings**

- 6.1 Attendance at Constituency Surgeries provided that public notice has been given.
- 6.2 Attendance at meetings of community councils, school boards (parent councils) or college councils, community hall committees or trusts covering part or all of the electoral division of a Councillor.

## **7. Meetings with Officers of the Council and other Business Meetings**

- 7.1 Attendance at meetings held at the workplace of any officer of the Council for the purpose of consultation with that officer in connection with the discharge of any of the Council's functions. In the case of such claims, Councillors will be required to state the venue of the meeting and the name of the most Senior Officer present.
- 7.2 Attendance at Court, Tribunals, Inquiries or other meetings in connection with legal proceedings where a Member is acting as a witness on behalf of the Council.
- 7.3 Attendance at meetings arranged for the purpose of accepting tenders, signing deeds or other legal documents.

## **8. Group Meetings**

- 8.1 Attendance at meetings of members of individual political groups represented on the Council for the purpose of discussing any matter in connection with the discharge of any of the Council's functions and, in addition, on any other occasion when that may be required arising from any business which may exceptionally be required to be considered by the Council or any of its committees or sub-committees.



## AGENDA ITEM

### FALKIRK COUNCIL

**Subject: MEMBERSHIP OF COMMITTEES, ETC. AND  
APPOINTMENT OF CONVENERS AND DEPUTE  
CONVENERS**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27 June 2007**  
**Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION  
SERVICES**

#### **1. PURPOSE OF THE REPORT**

- 1.1 At the Statutory Meeting of Council on 18 May 2007, it was agreed that there be submitted to the Acting Director of Law and Administration appropriate nominations of members to the various Committees of the Council, Licensing Board, Joint Boards and Fife and Forth Valley Community Justice Authority in accordance with the political balance of the Council.
- 1.2 The purpose of this report is to advise Council of the nominations received and to highlight a number of appointments that still require to be considered.

#### **2. APPOINTMENTS TO COMMITTEES AND JOINT BOARDS**

- 2.1 Appendix 1 attached to this report details the confirmed membership of Committees etc and highlights the matters that remain to be considered by Council. These outstanding matters are also summarised below.

##### **Civic Licensing Committee**

- 2.2 Council has still to determine the number of members on this Committee. Members will recall that the membership of the Committee previously mirrored that of the Licensing Board. The Licensing Board has now been reduced from 12 members to 10 and no decision was taken at the statutory meeting on whether or not Council wishes to reduce the membership of the Civic Licensing Committee or whether or not it wishes continue with the previous practice of having dual membership. Council is also required to appoint members to the positions of Convener and Depute Convener.

##### **Appointment of Conveners and Depute Conveners**

- 2.4 Appointments are required to the positions of Convener and Depute Convener of the following Committees:-
- Appeals Committee
  - Appointments Committee
  - Investment Committee
  - Joint Consultative Committee (JCC)

In respect of the JCC it should be noted that the Depute Convener is appointed by the staff side.

### **Civic Events Panel**

- 2.5 This Panel is made up of 3 members; the Provost and Depute Provost with the remaining place to be filled by a member from other than the largest political group.

## **3. RECOMMENDATION**

### **3.1 It is recommended that Council:-**

- (1) notes the appointment of Members to Committees etc;**
- (2) considers the membership of the Civic Licensing Committee, and**
- (3) appoints members to the vacant positions detailed in the Appendix to this report and as summarised at paragraph 2 of this report.**

.....  
**Acting Director of Law and Administration Services**

**Date: 30 May 2007**

**Contact Officer: Rose Mary Glackin , ext 6076/Iain Tough, ext 6110**



102  
APPOINTMENTS TO COMMITTEES ETC

Committee	Membership	Allocation
Policy and Resources	<div>1. Councillor Linda Gow – <b>Convener</b> (Labour)</div> <div>2. Councillor Alan Nimmo - <b>Depute Convener</b> (Labour)</div> <div>3. Councillor David Alexander (SNP)</div> <div>4. Depute Provost Allyson Black (Labour)</div> <div>5. Councillor Steven Jackson (SNP)</div> <div>6. Councillor Lynda Kenna (SNP)</div> <div>7. Provost Pat Reid (Labour)</div> <div>8. Councillor Robert Spears (Independent)</div>	<div>Labour4</div> <div>SNP3</div> <div>Ind1</div>
Scrutiny Committees	Membership	Allocation
Community Health and Safety	<div>1. Councillor Charles MacDonald – <b>Convener</b> (Labour)</div> <div>2. Councillor John McLuckie - <b>Depute Convener</b> (Labour)</div> <div>3. Councillor Jim Blackwood (Labour)</div> <div>4. Councillor John Constable (SNP)</div> <div>5. Councillor Gerry Goldie (Labour)</div> <div>6. Councillor Gordon Hughes (SNP)</div> <div>7. Councillor Craig R Martin (Labour)</div> <div>8. Councillor Cecil Meiklejohn (SNP)</div> <div>9. Councillor Malcolm Nicol (Con)</div> <div>10. Councillor Martin Oliver (SNP)</div> <div>11. Councillor Georgie Thomson (SNP)</div> <div>12. Councillor Alex Waddell (Independent Group)</div>	<div>Labour5</div> <div>SNP5</div> <div>Con1</div> <div>Ind Group1</div>
Economic Development	<div>1. Councillor Craig Martin – <b>Convener</b> (Labour)</div> <div>2. Councillor Joe Lemetti - <b>Depute Convener</b> (Labour)</div> <div>3. Councillor Billy Buchanan (Independent Group)</div> <div>4. Councillor Steven Carleschi (SNP)</div> <div>5. Councillor Tom Coleman (SNP)</div> <div>6. Councillor Stephen Fry (Labour)</div> <div>7. Councillor Gerry Goldie (Labour)</div> <div>8. Councillor Gordon Hughes (SNP)</div> <div>9. Councillor John McLuckie (Labour)</div> <div>10. Councillor Angus MacDonald (SNP)</div> <div>11. Councillor Martin Oliver (SNP)</div> <div>12. Councillor John Patrick (Con)</div>	<div>Labour5</div> <div>SNP5</div> <div>Con1</div> <div>Ind Group1</div>
Education and Leisure	<div>1. Councillor Alex Waddell – <b>Convener</b> (Independent Group)</div> <div>2. Councillor Craig Martin - <b>Depute Convener</b> (Labour)</div> <div>3. Councillor Jim Blackwood (Labour)</div> <div>4. Councillor Steven Carleschi (SNP)</div> <div>5. Councillor Tom Coleman (SNP)</div> <div>6. Councillor Gordon Hughes (SNP)</div> <div>7. Councillor Joe Lemetti (Labour)</div> <div>8. Councillor Angus MacDonald (SNP)</div> <div>9. Councillor John McNally (SNP)</div> <div>10. Councillor Alistair McNeil (Labour)</div> <div>11. Councillor Craig R Martin (Labour)</div> <div>12. Councillor John Patrick (Con)</div>	<div>Labour5</div> <div>SNP5</div> <div>Con1</div> <div>Ind Group1</div>

Scrutiny Committees	Membership	Allocation
Environment and Heritage	<ol style="list-style-type: none"> <li>1. Councillor Adrian Mahoney - <b>Convener</b> (Labour)</li> <li>2. Councillor Craig R Martin - <b>Depute Convener</b> (Labour)</li> <li>3. Councillor Billy Buchanan (Independent Group)</li> <li>4. Councillor Steven Carleschi (SNP)</li> <li>5. Councillor Tom Coleman (SNP)</li> <li>6. Councillor John Constable (SNP)</li> <li>7. Councillor Joe Lemetti (Labour)</li> <li>8. Councillor Charles MacDonald (Labour)</li> <li>9. Councillor John McLuckie (Labour)</li> <li>10. Councillor John McNally (SNP)</li> <li>11. Councillor Cecil Meiklejohn (SNP)</li> <li>12. Councillor Malcolm Nicol (Con)</li> </ol>	Labour 5 SNP 5 Con 1 Ind Group 1
Housing and Social Services	<ol style="list-style-type: none"> <li>1. Councillor Gerry Goldie - <b>Convener</b> (Labour)</li> <li>2. Councillor Alistair McNeill - <b>Depute Convener</b> (Labour)</li> <li>3. Councillor Jim Blackwood (Labour)</li> <li>4. Councillor Tom Coleman (SNP)</li> <li>5. Councillor John Constable (SNP)</li> <li>6. Councillor Angus MacDonald (SNP)</li> <li>7. Councillor Charles MacDonald (Labour)</li> <li>8. Councillor John McNally (SNP)</li> <li>9. Councillor Adrian Mahoney (Labour)</li> <li>10. Councillor Cecil Meiklejohn (SNP)</li> <li>11. Councillor John Patrick (Con)</li> <li>12. Councillor Alex Waddell (Independent Group)</li> </ol>	Labour 5 SNP 5 Con 1 Ind Group 1

Other Committees	Membership	Allocation
Appeals	<ol style="list-style-type: none"> <li>1. Councillor Jim Blackwood (Labour)</li> <li>2. Councillor Harry Constable (SNP)</li> <li>3. Councillor John Constable (SNP)</li> <li>4. Councillor Linda Gow (Labour)</li> <li>5. Councillor Steven Jackson (SNP)</li> <li>6. Councillor John McLuckie (Labour)</li> <li>7. Councillor Alister McNeil (Labour)</li> <li>8. Councillor John Patrick (Con)</li> </ol> <p><b>Note</b> - Convener and Dep. Convener still to be determined by Council</p>	Labour 4 SNP 3 Con 1
Appointments	<ol style="list-style-type: none"> <li>1. Councillor David Alexander (SNP)</li> <li>2. Councillor John Constable (SNP)</li> <li>3. Councillor Linda Gow (Labour)</li> <li>4. Councillor Charles MacDonald (Labour)</li> <li>5. Councillor Malcolm Nicol (Con)</li> <li>6. Provost Pat Reid (Labour)</li> </ol> <p><b>Note</b> - Convener and Dep. Convener still to be determined by Council</p>	Labour 3 SNP 2 Con 1

Other Committees	Membership	Allocation
Civic Licensing	<u>Note</u> – Membership, Convener and Dep. Convener still to be determined by Council (Refer to paragraph 2 of covering report)	
Common Good Fund Committees <ul style="list-style-type: none"><li>o Bo’ness</li><li>o Denny</li><li>o Falkirk</li><li>o Gmth</li></ul>	The Provost, Depute Provost and Members of the former Burghal areas	n/a
Emergency	Same Membership as P&R	n/a
Investment	<div><div>1. Councillor Tom Coleman (SNP)</div><div>2. Councillor Steven Fry (Labour)</div><div>3. Councillor Angus MacDonald (SNP)</div><div>4. Councillor Alistair McNeill (Labour)</div><div>5. Councillor Craig Martin (Labour)</div><div>6. Councillor John Patrick (Con)</div></div> <div><u>Note</u> – Convener and Dep. Convener still to be determined by Council</div>	<div><div>Labour</div><div>3</div></div> <div><div>SNP</div><div>2</div></div> <div><div>Con</div><div>1</div></div>
Joint Consultative	<div><div>1. Councillor David Alexander (SNP)</div><div>2. Depute Provost Allyson Black (Labour)</div><div>3. Councillor Linda Gow (Labour)</div><div>4. Councillor Steven Jackson (SNP)</div><div>5. Councillor Lynda Kenna (SNP)</div><div>6. Councillor Craig R Martin (Labour)</div><div>7. Councillor Alan Nimmo (Labour)</div><div>8. Councillor John Patrick (Con)</div><div>9. Councillor Georgie Thomson (SNP)</div><div>10. Councillor Alex Waddell (Independent Group)</div></div> <div><u>Note</u> – Convener still to be determined by Council. Depute Convener Appointed by staff side.</div>	<div><div>Labour</div><div>4</div></div> <div><div>SNP</div><div>4</div></div> <div><div>Con</div><div>1</div></div> <div><div>Ind Group</div><div>1</div></div>

Other Committees	Membership	Allocation
Regulatory	<div><div>1. Councillor Billy Buchanan - Convener (Independent Group)</div><div>2. Councillor Stephen Fry - Depute Convener (Labour)</div><div>3. Councillor Steven Carleschi (SNP)</div><div>4. Councillor Harry Constable (SNP)</div><div>5. Councillor John Constable (SNP)</div><div>6. Councillor Joe Lemetti (Labour)</div><div>7. Councillor Angus MacDonald (SNP)</div><div>8. Councillor Alistair McNeill (Labour)</div><div>9. Councillor Adrian Mahoney (Labour)</div><div>10. Councillor Craig Martin (Labour)</div><div>11. Councillor Malcolm Nicol (Con)</div><div>12. Councillor Martin Oliver (SNP)</div></div>	<div><div>Labour5</div><div>SNP5</div><div>Con1</div><div>Ind Group1</div></div>
Complaints Review Committee (Social Work)	Pool of Members from Housing & Social Services Committee from which 2 are taken as required (under review)	n/a
Education Appeals Committee	Pool of Members from Education and Leisure Committee which 1 is taken as required	n/a
Civic Events Panel	<div><div>1. Provost Pat Reid</div><div>2. Depute Provost Allyson Black</div><div>3.</div></div> <div>Note – Vacant position still to be determined by Council.</div>	<div><div>Provost, Depute Provost and 1 additional Member from other than the largest political group of the Council.</div></div>

## APPOINTMENTS TO JOINT BOARDS AND CJA

Title	Falkirk Council Places	Allocation
<p><b>Central Scotland Joint Fire and Rescue Board</b></p> <p><u>Total Membership - 11</u> Clacks - 2 Falkirk - 6 Stirling - 3</p>	<p>(Convener &amp; Depute Convener appointed by the Board)</p> <ol style="list-style-type: none"> <li>1. Councillor J Blackwood (Labour)</li> <li>2. Councillor Lynda Kenna (SNP)</li> <li>3. Councillor Craig Martin (Labour)</li> <li>4. Councillor Alan Nimmo (Labour)</li> <li>5. Councillor Robert Spears (Independent)</li> <li>6. Councillor Georgie Thomson (SNP)</li> </ol> <p><u>Substitute Members</u></p> <ol style="list-style-type: none"> <li>1. Councillor David Alexander (SNP)</li> <li>2. Councillor Adrian Mahoney (Labour)</li> <li>3. Councillor Angus MacDonald (SNP)</li> <li>4. Councillor John McLuckie (Labour)</li> <li>5. Provost Pat Reid (Labour)</li> <li>6.</li> </ol>	<p>Labour 3 SNP 2 Ind 1</p>
<p><b>Central Scotland Joint Police Board</b></p> <p><u>Total Membership - 11</u> Clacks - 2 Falkirk - 6 Stirling - 3</p>	<p>(Convener &amp; Depute Convener appointed by the Board)</p> <ol style="list-style-type: none"> <li>1. Councillor Jim Blackwood (Labour)</li> <li>2. Councillor Tom Coleman (SNP)</li> <li>3. Councillor Craig Martin (Labour)</li> <li>4. Councillor Alan Nimmo (Labour)</li> <li>5. Councillor Martin Oliver (SNP)</li> <li>6. Councillor Alex Waddell (Independent Group)</li> </ol> <p><u>Substitute Members</u></p> <ol style="list-style-type: none"> <li>1. Councillor David Alexander (SNP)</li> <li>2. Councillor Linda Gow (Labour)</li> <li>3. Councillor Joe Lemetti (Labour)</li> <li>4. Councillor Cecil Meiklejohn (SNP)</li> <li>5. Provost Pat Reid (Labour)</li> <li>6.</li> </ol>	<p>Labour 3 SNP 2 Ind 1</p>

Title	Falkirk Council Places	Allocation
<p><b>Central Scotland Valuation Joint Board</b></p> <p><u>Total Membership - 15</u>  Clacks - 3  Falkirk - 8  Stirling - 4</p>	<p>(Convener &amp; Depute Convener appointed by the Board)</p> <ol style="list-style-type: none"> <li>1. Councillor Jim Blackwood (Labour)</li> <li>2. Councillor Steven Carleschi (SNP)</li> <li>3. Councillor Gordon Hughes (SNP)</li> <li>4. Councillor Steven Jackson (SNP)</li> <li>5. Councillor Alan Nimmo (Labour)</li> <li>6. Councillor Charles MacDonald (Labour)</li> <li>7. Councillor Alistair McNeill (Labour)</li> <li>8. Councillor John Patrick (Con)</li> </ol> <p><u>Substitute Members</u></p> <ol style="list-style-type: none"> <li>1. Councillor D Alexander (SNP)</li> <li>2. Depute Provost A Black (Labour)</li> <li>3. Councillor G Goldie (Labour)</li> <li>4. Councillor L Gow (Labour)</li> <li>5. Councillor L Kenna (SNP)</li> <li>6. Councillor C R Martin (Labour)</li> <li>7. Councillor C Meiklejohn (SNP)</li> <li>8. Councillor M Nicol (Con)</li> </ol>	<p>Labour 4  SNP 3  Con 1</p>
<p><b>Fife and Forth Valley Community Justice Authority (CJA)</b></p> <p><u>Total Membership - 10</u>  Clacks - 1  Falkirk - 3  Fife - 4  Stirling - 2</p>	<p>(Convener &amp; Depute Convener appointed by the CJA)</p> <ol style="list-style-type: none"> <li>1. Councillor Alistair McNeill (Labour)</li> <li>2. Councillor John McNally (SNP)</li> <li>3. Councillor Malcolm Nicol (Con)</li> </ol> <p><u>Substitute Members</u></p> <ol style="list-style-type: none"> <li>1. Councillor Jim Blackwood (Labour)</li> <li>2. Councillor Cecil Meiklejohn (SNP)</li> <li>3. Councillor John Patrick (Con)</li> </ol>	<p>Labour 1  SNP 1  Con 1</p>

103  
LICENSING BOARD

Title	Membership	Allocation
Falkirk Council Licensing Board	(Convener & Depute Convener appointed by the Board)	Labour 4
		SNP 4
		Con 1
		Ind Group 1





## **AGENDA ITEM**

### **FALKIRK COUNCIL**

**Subject: APPOINTMENT OF MEMBERS TO OUTSIDE ORGANISATIONS**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27 JUNE 2007**  
**Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION**

#### **1. INTRODUCTION**

- 1.1 With the exception of appointments to SESTran, Council agreed at its statutory meeting held on 18 May 2007 to continue consideration of the appointment of members to outside organisations to the next meeting of Council.
- 1.2 The appendix to this report provides information on external bodies which have expressed a wish to have representation from elected Members of Falkirk Council.

#### **2. NATURE OF OUTSIDE ORGANISATIONS**

- 2.1 The external bodies included in the Appendix comprise;
  - External public agencies concerned with public services;
  - Outside organisations partly funded by Falkirk Council; and
  - Voluntary organisations
- 2.2 The Appendix provides information about each organisation including whether the representation has voting rights, the purpose of the organisation, the function expected of the elected member, information with regard to frequency of meetings and details of subscription fees where these apply.
- 2.3 Members appointed to organisations with particular status (e.g. companies) must ensure that they adhere to all the requirements and obligations of the particular organisation, especially where issues of company law are involved. Again, the Appendix indicates the status of each organisation. Further advice will be provided for members appointed to external bodies.

#### **3. CORNTON VALE OVER 21's PRISON VISITING COMMITTEE**

- 3.1 The Council has 6 places on the Cornton Vale Over 21's Prison Visiting Committee. Council appointments to the Visiting Committee are not restricted to elected members and the Council has adopted a practice in the past of appointing both elected members and lay people to the Committee.
- 3.2 At the meeting of Falkirk Council on 6 December 2006, when being advised of a vacancy on the Committee, Members agreed to proceed with a recruitment process to draw up a

panel of interested lay people for future appointments. This resulted in 2 applications being received. Both applicants are considered suitable for appointment.

- 3.3 The lay people appointed previously by the Council have been contacted to establish if they wish to be re-appointed. Of these 2 people, only one wishes to be re-appointed. Therefore, the 6 places available on the Committee could be filled as follows:-

- re-appointment of 1 lay person, Mr Bill Strathearn;
- appointment of the 2 new lay people (Miss Jill MacIntosh and Miss Lindsay Drummond) who applied following the recruitment process, and
- Council to nominate 3 Members to the remaining 3 places or alternatively, look to recruit more lay people

#### **4. CONVENTION OF SCOTTISH LOCAL AUTHORITIES**

- 4.1 Members will note from the Agenda for this meeting that there is a Motion to take up membership of the Convention of Scottish Local Authorities (CoSLA). The opportunity has been taken here to set out the requirements for the appointment of members to the Convention should Council agree to take up membership.
- 4.2 The Council is entitled to 4 places on the Convention. Advice on how these positions are filled has been provided by CoSLA. The advice is offered to guide local authorities in determining its delegation in terms of political proportionality. It includes a formula that states that where the main opposition group has more than one quarter of the total membership of the Council then one of the places should be allocated to that group. The Council can opt not to be bound by this formula and can consider appointing members on the basis of the political proportionality of the Council. This approach would equate to 2 members representing the Labour Group and 2 members representing the SNP Group.

#### **5. REGISTER OF INTERESTS**

- 5.1 Sections 4 and 5 of the Code of Conduct for Councillors relate to the Registration and Declaration of Interests. Members appointed to external bodies are required by the terms of the Code to include such appointments in their Register of Interests and consider declaring those interests in any context where there is any link between a matter which requires the attention of that Member and the registered interest. Members' interests may be governed by the General Dispensation issued by the Standards Commission provided certain criteria are met. Guidance on registration and declaration of interests and on the General Dispensation has been issued by the Standards Commission and all Members were provided with a copy shortly after being elected along with the Code of Conduct. Further information can be found in the FAQs issued to members with their Registration of Interests form.

## **6. RECOMMENDATION**

### **6.1 It is recommended that Council:-**

- (a) considers the nomination and appointment of elected Members to the organisations as detailed in the Appendix to this Report; and**
- (b) notes the requirements upon Members to record any appointments to outside bodies in their Register of Interests in accordance with the terms of the Ethical Standards in Public Life (Scotland) Act 2000, and**
- (c) reserves the opportunity to make appointments to CoSLA should the Council decide to take up membership.**

.....  
**Acting Director of Law and Administration**

**Date: 11 May 2007**

**Contact Officer:     Andrew Rose, 01324 501277 ext 1277  
                              Iain Tough, 01324 506110 ext 6110**

### **LIST OF BACKGROUND PAPERS**

- 1. Information supplied by external organisations.**



## Falkirk Council – Elected Member Representation on Outside Bodies/Organisations

### Key:

AB = Advisory Body  
Co = Company Limited by Guarantee  
CB = Co-ordinating Body  
FN = Forum or Network

JC = Joint Committee  
MB = Monitoring Body  
P = Partnership  
SP = Statutory Partnership

RC = Registered Charity  
SJC = Statutory Joint Committee  
VO = Voluntary Organisation

Name of Organisation	Representation Requested	Purpose of organisation	Voting rights?	Frequency of meetings	No. of meetings per annum	When meetings held	Function/ duty of elected member representative
Age Concern Falkirk  VO	1 elected member	Voluntary organisation managed by a committee of volunteers.	✓	Monthly	8 – 9	3 <sup>rd</sup> Wednesday in month	<ul style="list-style-type: none"> <li>• Participate fully as a member of the voluntary committee</li> <li>• Act as conduit of information between Council &amp; Age Concern Falkirk</li> <li>• Support fund raising activities</li> <li>• Assist with the review of Age Concern Falkirk's function in the future</li> </ul>
Alcohol Support & Counselling  VO	1 elected member	To provide a range of services to clients with alcohol and/or drug issues from prevention and education through to rehabilitation.	✓	6 weekly	8	Tuesday evenings	<ul style="list-style-type: none"> <li>• To be a member of the Board of Directors</li> </ul>

Argyll, Loch Lomond & Forth Valley (ALLFV) Tourism Partnership P	1 elected member	To identify local issues (tourism related) along with the needs and priorities within the ALLFV region and deliver actions identified to meet the Tourism Framework. Review local alignment and provide feedback on national tourism strategy.	✓	Quarterly	4 - 8	Unknown	<ul style="list-style-type: none"> <li>• Contribute ideas to enhance tourism growth</li> <li>• Review &amp; Challenge partnership priorities based on the regions' "highest commercial imperative".</li> <li>• Champion &amp; drive the delivery of Projects</li> <li>• Report on performance</li> <li>• Contribute to a unified regional tourism voice.</li> </ul>
Association for Public Service Excellence (APSE) FN	Up to a max of 10 elected members (one to sit on each Forum and Group)	<p>a. To promote the public provision of high quality local services and to support authorities in their efforts to deliver continuous improvement and to oppose any unreasonable restrictions in achieving such aims.</p> <p>b. To co-ordinate the activities of direct frontline services to exchange information and experience, and to make recommendations to such bodies, with a view to identifying and disseminating best practice.</p> <p>c. To work in partnership with any organisation which shares the aims and philosophies of the Association, Scottish region in the promotion of the future well being of direct frontline services, their employees and the communities who are served by them.</p> <p>d. To monitor present legislation and any changes proposed thereto, to understand the implications, representing members and lobbying government and other bodies as appropriate.</p>	✓	Forums - 2 times annually  Groups - 3 times annually Plus AGM for each	2 or 3 + AGM	Calendar sent out in June	Each member to sit on a Forum and/or Service Group (or all groups).
		<p>The authority is entitled to be represented on each Thematic Forum and each Service Group. Each authority can choose different representatives for each Forum and each Group, or can choose to have the same representative on all, or a mixture.</p> <p><b>Members appointed as Chairs of each Service Group attract remuneration of £1000 pa</b></p>					

		<p>The 3 Thematic Forums are:</p> <p>Healthy Communities The Environment Community Regeneration</p>	<p>The 7 Service Groups are:</p> <p>Building &amp; Housing Roads &amp; Lighting Parks, Grounds &amp; Street Transport &amp; Mechanical Waste &amp; Recycling Soft FM Sports, Leisure &amp; Culture</p>					
Braveheart Association  RC	1 elected member	A voluntary organisation which runs self help support groups for adults with heart problems. Volunteers are recruited and trained to run groups encouraging participants to discuss and implement changes to their lifestyle in a positive manner through sessions on healthy eating, medication, heart health, physical activity, stress and smoking cessation.		✓	6 weekly	9 + AGM	Monday 2pm – 4pm:  May 28; Jul 9; Aug 27 (AGM); Oct 8; Nov 26	To help ensure that support and funding provided by the Council are used to the maximum effect in the delivery of Scottish Executive guidelines in primary and secondary health care.
Central Scotland Institute of Sport  P	1 elected member	To develop athletes with the potential to succeed on the world stage by supporting their development so they can progress to the Scottish Institute of Sport.		✓	6 monthly	2	June & December	To approve policies and resources to meet the aims of the Central Scotland Institute of Sport.

Central Scotland Racial Equality Council (CSRECL)  VO	1 elected member	<p>CSRECL is an autonomous voluntary organisation which works towards a racism-free Central Scotland which gives everyone an equal chance to learn, work and live free from discrimination and prejudice and from the fear of racial harassment and violence</p> <p>CSRECL is opposed to all forms of discrimination and oppression and actively promotes racial justice and equality of opportunity for all. Committed to plan and deliver services in a manner which is transparent, professional, sensitive and values diversity.</p> <p>CSRECL promotes equality of opportunity and good relations between persons of different racial groups without distinction on grounds of colour, race, nationality, ethnic or national origin, gender, marital status, disability, sexual orientation, age and creed.</p>	x	Quarterly	4 + AGM	Tuesday evenings but dates agreed at 1 <sup>st</sup> meeting after AGM	Support work of CSRECL, advise governing body when necessary and act as a link between CSRECL and Falkirk Council.
Citizens Advice Bureau (Denny & Dunipace)  RC	1 elected member	<ol style="list-style-type: none"> <li>General advice agency</li> <li>To ensure individuals do not suffer through lack of knowledge of their rights and responsibilities or of the services available or through an inability to express their needs effectively and equally.</li> <li>To exercise a responsible influence on the development of social policies and services locally and nationally.</li> </ol>	✓	Bi-monthly	6 + AGM	2 <sup>nd</sup> Wednesday of month	<ul style="list-style-type: none"> <li>Two way exchange of information and representation of views.</li> <li>Management Committee members are responsible for ensuring CAB meets the standards of membership scheme and all legal obligations.</li> <li>Councillor role includes communicating at an executive level to aid better understanding of the CAB role to the community and CAB needs to the service.</li> </ul>
Citizens Advice Bureau (Grangemouth & Bo'ness)  RC	1 elected from Grangemouth and 1 elected member from Bo'ness	No request for representation has been received from Falkirk Citizens Advice Bureau.	✓	6 weekly	10	Thurs @ 5.30pm	
Cornton Vale Over 21s Visiting Committee  SJC	As outlined in paragraph 3 of the report	<ol style="list-style-type: none"> <li>To provide a necessary outside perspective on the life and work of a prison or young offenders institution.</li> <li>Act as an independent observer on behalf of the Scottish Executive to whom it is responsible. If there are matters which are of concern to a committee, it is its duty to report them to the Governor. Where the Governor does not take appropriate remedial action, the committee may bring the matters to the attention of the Scottish Executive.</li> </ol>	✓	6 weekly	9	Alternate between Tues pm & Fri am	Undertaking visits to various parts of the prison, writing a report of the visit for the visit book and attending the Visiting Committee meetings.



Council for Voluntary Sector (CVS)  RC	1 elected member	Umbrella and support body for charity & voluntary sector	✓	Bi-monthly	6 + AGM	3 <sup>rd</sup> Wed in month (evening)	Contribute to developing strategic leadership of the organisation. To act in the best interests of the CVS as a Board member.
East of Scotland European Consortium  JC	1 elected member	To represent and promote the interests of member authorities with regard to European policy development and implementation.	✓	Quarterly	4	Jun 25, Oct 8, Dec 10 (in Brussels)	Elected members are the decision making bodies whom comprise the policy board.
Edinburgh Airport Consultative Committee  AB	1 elected member	To advise the managing Director of Edinburgh Airport about issues which concern the local communities, travellers and other users of the airport.	✓	Quarterly	4	2 <sup>nd</sup> Monday of month	Attendance at meetings to represent the Council and the wider community.
Falkirk Enterprise Action Trust (FEAT)  Co	1 elected member	To assist people in the Falkirk Council area to start up, develop and grow businesses contributing to the economic performance of the area.	✓	Quarterly	4	Unknown	Member of Board of Trustees
Falkirk Environment Trust (FET)  RC & Co	1 elected member	To distribute landfill tax monies and other sources of funding in the Falkirk Council area.	✓	6 weekly	6-8	Unknown	Attendance at meetings to represent the Council and the wider community.

Falkirk Sports Council  VO	2 elected members	a) To promote interest and participation in sport in the Falkirk Council area; b) Encourage work of various sports clubs and organisations in Falkirk area both generally and in relation to specific projects; c) To examine the available sports facilities in the Falkirk area as against current and anticipated needs and to make recommendations to Falkirk Council and any other appropriate body; d) To promote or support competitions, championships and social events as considered desirable; e) To assist local sports clubs and organisations and individuals, by arranging courses and displays, for the improving of personal performance and for the training of leaders, coaches, referees and judges; f) To assist in the formation of sports clubs where none exists, or where existing clubs are unable to fulfil current needs; g) To encourage, with the assistance of the Education Authorities, schools pupils and school leavers to take up sporting activities; h) To receive reports and recommendations from local sports clubs and organisations on all matters concerning sport and to take appropriate action thereon; i) To publish and distribute, as considered desirable, up to date information on local sports clubs, organisations, activities and facilities; j) To foster in the field of amateur sport, the twinning links between the Council and twin towns; and; k) To further the foregoing objects by organising such activities and taking such other actions as the Sports Council may deem appropriate.	✓	Monthly	9	3 <sup>rd</sup> Monday in month	Inform Sports Council Members of Falkirk Council's plans for sports and facilities. Also, to take communication and information back to Falkirk Council.
Falkirk & District Arts & Civic Council  VO	Provost (Honorary President) and 2 elected members	To encourage and stimulate interest in the promotion, understanding, performance and appreciation of the arts and related cultural and civic activities within the Falkirk Council area.	✓	Monthly (Sept – June only except May)	9	3 <sup>rd</sup> Friday in Month	<ul style="list-style-type: none"> <li>• To represent Falkirk &amp; District Arts &amp; Civic Council views to the Council</li> <li>• To share Council Policy with the Falkirk &amp; District Arts &amp; Civic Council</li> <li>• Work with the other members to achieve the Falkirk &amp; District Arts &amp; Civic Council aims and objectives.</li> </ul>

Falkirk & District Community Safety Panel  VO	1 elected member	To reduce the potential for crime/fear of crime in the area.	✓	6 weekly	3	Every 6 <sup>th</sup> Tuesday	Input on policy development and take back information to inform Council policy.
Falkirk & District Town Centre Management LTD  Co	1 elected member	Management of the town centres in the Falkirk Area (Falkirk, Grangemouth, Bo'ness, Denny and Stenhousemuir).	x	Quarterly	4 + AGM	Last Friday in Jan, Apr, Jul & Oct	Official liaison between the board of Directors and Falkirk Council.
Falkirk & District Twinning Assoc.  CB	Provost (ex-officio) and 2 elected members	To promote twinning links and cultural exchanges with Creteil, France.	✓	Approx quarterly	4-5	Unknown	To advise assoc. with regards to the Council's position on twinning arrangements.
Falkirk Temperance Trust  RC	3 elected members	Supporting organisations operating in Falkirk that deal with alcohol and substance abuse.	✓	As required	n/a	n/a	To serve as a trustee of the Trust
Forth Valley Economic Forum  FN	1 elected member	Economic Development	x	Every 2-3 months	Max 5	May 29, Sept 11, Nov 6	Participate in discussions regarding economic development and strategic issues pertaining to the Forth Valley Area.

Forth Valley Joint Member Officer Group - Scottish Environment Protection Agency (SEPA) JC	2 elected members	To gain agreement on strategic waste management decisions within the Forth Valley.	✓	Quarterly	4	Unknown	To sit on the Joint Member Officer Group
Forth Valley NHS Board JC	1 elected member	To ensure the continuing improvement in the health of the population of Forth Valley and to develop effective, integrated services to meet the needs of individuals and to provide reassurance that resources are utilised effectively and efficiently and targeted at the areas of greatest need.  <b>This position attracts remuneration of £7620 from FVNHS and the Council's appointment requires to be approved by Scottish Ministers.</b>	✓	Bi-monthly	6	Last Tuesday of month	To be a Board Member and to attend up to 12 Board Seminars annually.
Forth Valley NHS Community Health Partnership JC	2 elected members	To scrutinise the process of enhancing health and improving health and related services across health, local authorities, voluntary organisations and communities. A key role in making local policy decisions, influencing national priorities and identifying opportunities for further integration of healthcare & partnership services.	✓	Bi-monthly	6	June 26, Aug 21, Oct 30, Dec 18.	Participate as member of Community Health Partnership Committee.  <b>Members appointed will require to undergo training based on competencies set out in the Partnership's terms of reference.</b>
Highland Reserve Forces' And Cadets' Assoc. CB	1 elected member	Representing the reserve forces and the 3 service cadet organisations (Sea, Army and Navy) in the area north of the Forth/Clyde line. Provides accommodation, support to recruiting, support to employers of reservists and support to cadets and wider youth initiatives.	✓	3	3	2 x May (1 evening + 1 all day) 1 x Oct (evening)	To inform the Association about local issues that affect the organisation and bring back to the Council issues which may be relevant.
Joint Children's Panel Advisory Committee (JCPAC) SJC	1 elected member	To monitor the work of Falkirk, Stirling and Clackmannanshire Children's Panels. To lead on recruitment of new Panel Members and to stay aware of changes to the Children's Panel system.  <b>Elected Members <u>MUST</u> complete statutory training. Membership of this committee is also a childcare position under the Protection of Children (Scotland) Act 2003. Consequently, disclosure checking will be required.</b>	✓	Approx. bi-monthly	5	June 18 (Alloa), Aug 20 (Falkirk), Nov 5 (Stirling) @ 2pm	To take a full part in JCPAC meetings, to participate in the recruitment of new panel members, to become involved in any sub-committees established and to represent the JCPAC when necessary.

Linked Work & Training Trust  Co	1 elected member	To deliver a programme of education and work based learning to degree level.	✓	Bi-monthly	6	Last Friday bi-monthly	<ul style="list-style-type: none"> <li>• Vice-Chairperson.</li> <li>• Attend meetings.</li> <li>• Responsibility in terms of company law and members have delegated power to the board to take management decisions.</li> </ul>
Local Authority Fairtrade Forum  FN	1 elected member	To take forward Fairtrade Nation status and share information and best practice on Fairtrade issues to feed into the Fairtrade Forum.	✓	Annually or bi annually	1 or 2	Not yet known	Help share experiences in taking forward the Fairtrade Nation Local Government Agenda.
National Association of Councillors  FN  Annual subscription £672	A maximum of 3 elected members to sit on the UK National Management Committee and a maximum of 3 elected members to sit on the Scottish Regional Committee.	<ul style="list-style-type: none"> <li>• To facilitate the coming together of members on a regular basis</li> <li>• To extend and strengthen the links between all local authorities and to enhance friendship and co-operation</li> <li>• To address and understand matters of common and mutual interest</li> <li>• To promote civic leadership and political dialogue</li> <li>• To promote equality of opportunity, combat discrimination and embrace diversity in both the work of the Association and its membership</li> <li>• To provide a forum for councillors to research, discuss and progress political issues and a means whereby joint views may be formulated and expressed.</li> <li>• To provide for the training and education of members on national issues</li> <li>• To co-operate with and promote goodwill with members' organisations in the members states of the EU</li> <li>• To maintain and develop the association on a structured basis</li> <li>• To provide information on the Association to members, to ensure that members are afforded the opportunity to contribute to the Association's activities and to the development of policies which represent consensus as far as possible</li> <li>• To promote the policies of the Association by providing information to local authorities, bodies representing members of local authorities, the public, the media and outside organisations.</li> </ul>	✓	Quarterly	4 + AGM	Varies.	To attend association meetings on a national and Scottish level.

		<ul style="list-style-type: none"> <li>To develop relations with other organisations and bodies, as appropriate</li> <li>To promote the status of elected members and to put forward the case for adequate remuneration (including pension rights)</li> </ul>					
Order of Malta Dial – a – Journey LTD and Shopmobility Ltd  Co	1 elected member to serve on both bodies	<p>Order of Malta deals with the provision of wheelchair accessible transport for disabled people.</p> <p>Shopmobility lends electric wheelchairs etc for disabled shoppers in Town Centres.</p> <p>The appointment to Shopmobility will be short term as the organisation will be dissolved later in 2007 and integrated with Order of Malta.</p>	✓	Bi - monthly	6	Last Tuesday every 2 <sup>nd</sup> month	To be a director of the companies and attend meetings of the Boards as required.
Paragon Housing Association LTD  Co	1 elected member	<ol style="list-style-type: none"> <li>Registered social landlord</li> <li>Provision of social rented housing</li> </ol>	✓	Monthly	10-12	PM on 3 <sup>rd</sup> Wed. each month	Responsibility of Registered Social Landlord committee member in accordance with statutory and regulatory provisions.
Scottish Accident Prevention Council  CB	3 elected members	<p>Co-ordinates and stimulates the work of Accident Prevention across Scotland.</p> <p>1 member to sit on each of the Council's standing Committees:-</p> <ul style="list-style-type: none"> <li>Home Safety</li> <li>Road Safety</li> <li>Water &amp; Leisure Safety</li> </ul>	✓	Quarterly	5	<p>1<sup>st</sup> Wed of month</p> <p>AGM on 3 October 2007</p> <p>Annual Conference – Airth Castle, 3/4 September 2007</p>	Attend and participate in meetings and activities.
Scottish Enterprise Forth Valley  CB	1 elected member	Economic development in Forth Valley	✓	Bi-monthly	6	4 <sup>th</sup> Mon. in Jan, March, May, Jun, Sep & Nov	Act as Board Member and probably member of one or more sub-committees.
Scottish Joint Council (COSLA)  Annual subscription £22,510	1 elected member	To negotiate salary and terms & conditions of employment with the Trades Unions representing SJC staff on behalf of Scottish Local Authorities.	✓	Quarterly	4 - 6	Unknown	<ul style="list-style-type: none"> <li>Represent Falkirk on the employers side of the SJC.</li> <li>Serve as an employers' representative on SJC working groups, appeals panels as required.</li> </ul>

<p>Scottish Liaison Group on Radioactive Waste Management</p> <p>FN</p>	1 elected member	<ul style="list-style-type: none"> <li>provide a mechanism to identify a common, Scottish local authority viewpoint on radioactive waste management issues</li> <li>act as an interface with the Scottish Executive, Scottish Parliament and regulatory bodies as they consult on radioactive waste management and clean-up policy and practice; and</li> <li>influence national policy on radioactive waste management in the interests of the communities affected</li> </ul>	✓	<p>This is a new group and has not yet met. It is proposed that a steering group will be created following the establishment of its membership to determine meeting frequency.</p>			To attend Liaison Group meetings.
<p>Scottish Local Government Forum Against Poverty</p> <p>FN</p> <p>Annual subscription £1430</p>	1 elected member and 1 named substitute elected member	<ul style="list-style-type: none"> <li>Campaigning and lobbying for action</li> <li>Providing Councils with a common voice</li> <li>Influencing local, national and European Union Policy</li> <li>Promoting initiatives to alleviate poverty/social exclusion</li> <li>Sharing information on 'best practice'</li> <li>Co-operating on joint projects and commissioning research</li> <li>Working with other organisations on issues of common concern</li> <li>Liaising and engaging in the processes developed by the Scottish Parliament and its committees in relation to relevant policy</li> <li>Further consolidating relations with relevant Westminster Select Committees and All Party Parliamentary Groups</li> </ul>	✓	Six weekly	8 +	<p>A minimum of 8 annually</p> <p>AGM 31 August 2007 (provisional date)</p>	The Forum is a network of Scottish local authority elected members who annually elect a committee which is responsible for the development of policy and priority issues for the Forum. Executive Committee meets as required.
<p>Scottish Museums Council</p> <p>RC &amp; Co</p>	1 elected member	Lead strategic body for museums and galleries in Scotland.	✓	Annual (AGM)	1	Nov.	Represent the interests of Falkirk Council in issues relating to museums and galleries.
<p>Scottish National Federation for the Welfare of the Blind</p> <p>RC</p>	1 elected member	To promote the well being, education and employment of blind and partially sighted people in conjunction with various affiliated bodies.	✓	Bi-monthly	5	1 <sup>st</sup> Thurs. of month	Member of Executive Committee of Federation and would participate in discussion and assist in formulating policy.

Scottish Railway Preservation Society RC & Co	1 elected member	The advancement of railway heritage through the creation of a nationally significant museum of Scottish Railways and the operation of the Bo'ness & Kinneil Railway as a visitor attraction.	✓	Approx. 6 weekly	1 - 4	Friday evenings	<ul style="list-style-type: none"> <li>To serve as a trustee of the Society.</li> <li>To play a full role in establishing the Society's strategic direction and ensuring alignment of the Society's objectives with those of Falkirk Council.</li> <li>To provide complete transparency to Falkirk Council in all matters relating to the use of funds provided by grants and the Service Level Agreement.</li> </ul>
Scottish Schools Equipment Research Centre (SSERC) Co	1 elected member	A not-for-profit research centre and advisory body providing technical support to schools and colleges in Scotland.  The affairs of the Centre are governed by SSERC LTD, a company limited guarantee, which is also a registered charity.	✓	4-5 annually	Min. 3	Variable	To be a corporate member of SSERC LTD.
South East of Scotland Transport Partnership (SESTran) SP	2 named substitute elected members	Regional Transport Partnership Authority  <b>N.B. Council appointed Councillors C Martin and Lemetti as its representatives at the statutory meeting.</b>	✓	Monthly	12	Fri.	Member of statutory transport body
Standing Conference of Local Government in the Forth Estuary MB	2 elected members	To co-ordinate monitoring of radioactivity and similar effects in the Forth Estuary.	✓	Annually	1	Not known	Represent the local authority's interests.
Stirlingshire Educational Trust RC	7 elected members	Charitable trust awarding educational grants.	✓	Quarterly	4	Jun 6, Sept 5, Dec 5, Nov, Mar 3 2008	To act as a trustee in running a charitable trust



University of Stirling Conference  MB	Provost plus 1 elected member	Higher education	✓	Annual	1	March	To attend and hear a report on the work of the University over previous year and comment as appropriate.
WESLO Housing Management Co	1 elected member	Provide affordable, good quality rented housing. To exercise local control over housing stock to enable tenants to have a greater say in policies affecting their housing and environment.	✓	6 weekly	8	9 May, 13 June, 1 August, 12 Sept, 24 Oct, 5 Dec.	General representation of Falkirk Council on governing body of WESLO.
Workers' Educational Association (WEA)  RC & Co	1 elected member	A national, democratic adult education provider which produces community and work place based adult learning.	x	6 monthly	2	Sat.	To be a key contact for the WEA and to provide information to the WEA to ensure WEA services complement council strategies.



**FALKIRK COUNCIL**

**Subject: LOCAL LICENSING FORUM AND APPOINTMENT OF CLERK TO  
THE LICENSING BOARD**  
**Meeting: FALKIRK COUNCIL**  
**Date: 26 June 2007**  
**Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION SERVICES**

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise Council that the Licensing (Scotland) Act 2005 imposes a new requirement on the Council to set up and administer a Local Licensing Forum. This Forum, consisting of people with an interest in the way the Act is operated in the area, is to offer advice and recommendations to the Licensing Board on the exercise of its functions under the Act. Appointments to the Forum are to be made by the Council.
- 1.2 The report also invites Council to approve the appointment of myself to the position of Clerk to the Licensing Board.

**2. CONSIDERATIONS**

- 2.1 Section 10 of the Licensing (Scotland) Act 2005 requires each local authority to establish a Local Licensing Forum for its area.
- 2.2 The functions of a Local Licensing Forum are to keep under review the operation of the 2005 Act in its area and, in particular, the exercise by the Licensing Board of its functions under the Act. It may also offer advice and make recommendations to the Licensing Board but it may not become involved in any case or application being dealt with by the Board. One of the first tasks of the Forum will be to consider the Board's Licensing Policy Statement, which has to be in place by November 2007.
- 2.3 The Forum must meet at least four times a year, except in 2007, and at least once a year there must be a joint meeting of the Forum and the Licensing Board. It is a requirement that the Board must have regard to the Forum's advice and recommendations when carrying out its functions. Where it decides not to follow that advice or recommendations, it must give the Forum written reasons for not following it.
- 2.4 A Local Licensing Forum has to comprise between 5 and 20 people, who must be representative of people in the area having an interest in the Forum's functions. It is a requirement that the Council's Licensing Standards Officer be a member of the Forum. The Director of Development Services is taking forward the recruitment process for a Licensing Standards Officer at present.

- 2.5 In addition, the Act requires that the following be invited to be members of the Forum:-
- (a) holders of premises licences and personal licences under the Act;
  - (b) the Chief Constable of the local Police service;
  - (c) persons having functions relating to health, education or social work;
  - (d) young people, and
  - (e) persons resident within the Forum's area.
- 2.6 It is for the Council to appoint members to the Forum on such terms and conditions as it sees fit. Thereafter the Council has to administer the business of the Forum, providing it with meeting accommodation and administrative support. The Forum itself has to elect a Convener each year and determine how it will organise its business. Members of the Forum can send substitutes to attend meetings on their behalf. Forum meetings must be held in public.
- 2.7 In setting up the Forum, it is suggested that the following persons/organisations be approached to provide representatives:-
- (a) Central Region Licensed Trade Association (CRLTA);
  - (b) The Scottish Grocers' Association;
  - (c) the Bar, Entertainment and Dance Association (BEDA);
  - (d) the Chief Constable;
  - (e) the Director of Community Services re Dialogue Youth;
  - (f) Forth Valley College;
  - (g) NHS Forth Valley;
  - (h) Forth Valley Substance Action Team, and
  - (i) Community Councils.
- 2.8 Interested parties will be able to apply through the Council's website or the website established by the Scottish Executive [www.local-licensing-forums.org.uk](http://www.local-licensing-forums.org.uk). In addition, copies of nomination forms will be sent to those bodies detailed above. Expressions of interest have already been received from CRLTA and BEDA in addition to some individual license holders.
- 2.9 Guidance issued by the Executive also suggests that a member of the Licensing Board sit on the Forum to provide a link between both bodies.
- 2.10 It is suggested that these representatives be appointed to hold office until the next local government elections in 2011. Otherwise, it is not considered necessary to impose any terms and conditions on appointments to the Forum. In addition to the core membership it is anticipated that representatives from other organisations such as faith groups, ethnic minorities and disability access groups will be invited to attend meetings to discuss specific issues as appropriate.
- 2.11 Although there is no statutory timetable for the creation of these Forums, they need to be set up as soon as possible in order that they have a reasonable time to consider the Licensing Board's Licensing Policy Statement before November 2007. A programme of training for the Forum members will also be developed.

### **3. APPOINTMENT OF CLERK TO THE LICENSING BOARD**

- 3.1 Paragraph 8 of Schedule 1 to the Licensing (Scotland) Act 2005 requires that the Council appoints a Clerk of the Licensing Board and provides that the Clerk must be an advocate or a solicitor.
- 3.2 The Director of Law and Administration has traditionally held the role of Clerk in Falkirk Council and I have performed that role for 3 years. It is suggested that Council formally re-affirms that appointment in terms of the 2005 Act.

#### **4. RECOMMENDATIONS**

##### **4.1 It is recommended that Council:-**

- (a) agrees to establish a Local Licensing Forum;**
- (b) delegates the appointment of members to the Forum to the Acting Director of Law and Administration in consultation with Group Leaders or their nominees, with a report back to a future meeting of the Policy and Resources Committee on the outcome of this process, and**
- (c) appoints the Acting Director of Law and Administration Services to the position of Clerk of the Falkirk Council Licensing Board.**

.....  
**Acting Director of Law & Administration Services**

**Date: 19 June 2007**

**Contact Officers:      Rose Mary Glackin Tel 01324 506076,  
                                 Bryan Douglas Tel. 01324 506116**

#### **BACKGROUND PAPERS**

Nil



**FALKIRK COUNCIL**

**Subject: DELEGATION OF POWERS TO DETERMINE URGENT  
ISSUES DURING THE SUMMER RECESS**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27 June 2007**  
**Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION  
SERVICES**

**1. INTRODUCTION**

- 1.1 In order that urgent items of business, normally determined by Council or Committee, might be dealt with during the summer recess, it is proposed that Chief Officers be given delegated powers to determine such items, in consultation with the Convener and Depute Convener of the appropriate Committee. Where it is proposed that matters are to be so considered, the Chief Officer will require to submit these items to the Acting Director of Law and Administration Services in the first instance. This is, however, a general principle of delegation and is subject to a number of important exceptions.
- 1.2 These exceptions are:-
- (a) No Officer shall be entitled to take decisions involving Council expenditure outwith the approved Revenue Budget and Capital Programme;
  - (b) No Officer shall take decisions involving an increase in the permanent establishment of his/her Service; and
  - (c) 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.
- 1.3 In relation to all of the above exceptions, a special meeting of the appropriate Committee could be convened, if required.
- 1.4 In the circumstances described at paragraph 1.1 above, each Director would be required to consult as widely as necessary and in any event with the Chief Executive and Acting Director of Law and Administration Services.

## **2. RECOMMENDATION**

**2.1** It is recommended that Chief Officials be given delegated powers, in consultation with the Convener and Depute Convener of the appropriate Committee, to determine urgent items of business during the summer recess (from 27 June 2007 to 13 August 2007) and to report the decisions thereon to the first meeting of the Policy and Resources Committee thereafter, provided that:-

- (a)** any such decision is required to secure the proper delivery of Council Services and to comply with the Council's statutory duties;
- (b)** any such decision does not involve expenditure of Council monies outwith the approved Revenue Budget and Capital Programme;
- (c)** any such decision does not involve an increase in the permanent establishment of the particular Service; and
- (d)** any such decision involves no dispute as to legality, propriety or the proper interpretation of Council policy as affecting the decision.

.....  
**Acting Director of Law and Administration Services**

**Date: 15 June 2007**

**Contact Officer: Iain Tough, Tel: 506110**

### **LIST OF BACKGROUND PAPERS**

**1.** Falkirk Council's Scheme of Delegation to Committees, Sub-Committees and Officers.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 506110 and ask for Iain Tough.



**FALKIRK COUNCIL**

**Subject: EXECUTION OF DEEDS**  
**Meeting: FALKIRK COUNCIL**  
**Date: 27 JUNE 2006**  
**Author: ACTING DIRECTOR OF LAW AND ADMINISTRATION SERVICES**

**1. INTRODUCTION**

- 1.1 The Deeds shown in the Appendix to this Report have been signed and sealed on behalf of the Council by the Acting Director of Law and Administration Services.

**2. RECOMMENDATION**

- 2.1 That Council notes the signing and sealing by the Acting Director of Law and Administration Services of the Deeds listed in the Appendix.

.....  
**Acting Director of Law and Administration Services**

**Date: 14 June 2007**

**Contact Officer: Iain Tough (Tel: 01324 506110)**

**LIST OF BACKGROUND PAPERS**

NIL