

# **NORTH AYRSHIRE COUNCIL**

**27 June 2018**

## **North Ayrshire Council**

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**Title: Governance Documents**

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**Purpose:** To review the key Governance documentation which regulates the operation of Council, its Committees and Officers.

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**Recommendation:** To review and approve with effect from 1 July 2018 the revised versions of (1) Standing Orders for Meetings and Proceedings of the Council attached at Appendix 1; (2) the Scheme of Administration attached at Appendix 2; (3) the Scheme of Delegation to Officers attached at Appendix 3; (4) the Guidelines on Member/Officer Relations attached at Appendix 4; and (5) the Standing Orders for Contracts attached at Appendix 5.

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## **1. Executive Summary**

1.1 This report suggests revisals to the key governance documents which regulate the operation of Council, its Committees and Officers. Changes are proposed to the following:-

- ) Standing Orders relating to Meetings and Proceedings
- ) Scheme of Administration
- ) Scheme of Delegation to Officers
- ) Guidelines on Member Officer Relations
- ) Standing Orders for Contracts

## **2. Background**

2.1 Audit Scotland in their report "Roles and Working Relationships- Are you Getting it Right" stress the importance of having governance arrangements that are fit for purpose and up to date. They note that such documents are critical in clarifying roles, responsibilities and expected behaviour and should be reviewed regularly. Good governance arrangements lead to sound decision making, and key governance documents should be regularly reviewed. While the key governance documents detailed in section 1.1 were all updated before approval by Council on 17 May 2017, the opportunity has been taken to further review them.

## **Standing Orders**

2.2 The Standing Orders for Meetings set out the rules for decision taking and define how a Council and its committees conduct their business democratically. The main revisions which have been made in comparison to the previous Standing Orders are:

- ) 9- Order of Business- to align this with the current order in which items appear on the Council agenda;
- ) 12.4 - A time limit of 5 minutes is proposed for questions, supplementary questions and responses, albeit the original question can also be prefaced by a 2 minute preamble. This brings this into line with the time limits in debate
- ) 13.2 and 14.4 - Motions and amendments for Council should be submitted in writing, and it is made clear that such motions or amendments need to be either read out or expressly referred to when being moved. This is intended to deal with some of the confusion at recent meetings;
- ) 26.3 - The Call-in procedure for planning applications was previously omitted from Standing Orders and needs to be included. The opportunity has been taken to update this. The proposal is that as long as the call-in complies with 26.3.1 by being lodged in time and referring to planning considerations, the application will simply be referred to the Planning Committee for determination. There would be no interim Committee to decide whether to accept the call-in. The 21 days' time limit remains the same, albeit clarified that it starts from validation of the application. Similarly the existing provision remains that individual Members of the Planning Committee cannot determine any application which they have called-in. This is intended to deal with a possible perception of bias. However it would still be an option for the Planning Committee to decline to determine the application, which would mean that it would be remitted to officers for determination, and any subsequent appeal would be to the Local Review Body, rather than Scottish Ministers.
- ) Appendix B Deputations and Petitions- additional exceptions have been added in 2.4 relating to a) functions delegated to the Integration Joint Board; b) where the request seeks to review a decision taken within the last 6 months; or c) seeks to review a matter which has already been reviewed by the Audit and Scrutiny Committee through the Call-in process.

## **Scheme of Administration**

2.3 The Scheme of Administration sets out the functions reserved to Council, the powers delegated to its committees, and the remit and constitution of those committees. The proposed membership of each Committee, both in terms of overall numbers and the numbers to be appointed by Opposition, Administration and others is listed under each individual Committee. The main revisions which have been made in comparison with the previous Scheme of Administration are:-

- ) Section 1 General- the Social Work Complaints Review Panel was abolished by legislation in 2017 but remained in existence to deal with any complaints commenced before 1 April 2017. There are no remaining complaints and accordingly the Panel has now been removed.

) Section 2- The functions reserved to Council now include a change to the North Ayrshire Integration Scheme. They also include two categories of planning application which in term of regulations, must be determined by Council.

- 2.4 Section 3 Cabinet- A number of functions which Cabinet presently undertakes are added, including approval of the Strategic Housing Investment Plan (SHIP), decisions required in relation to Business Improvement Districts (BID) and harbour authority functions
- 2.5 It is proposed that the Chair of the Appeals Committee should rotate amongst the pool of Members. Currently the result of having a fixed chair in a committee of three Members is that only two Members rotate from the remaining pool of 9 Members. Accordingly other Members only serve on every fifth meeting, which makes it difficult to build up experience and expertise. A rotating chair allows those from the pool to serve on every third committee.
- 2.6 The audit functions of the Audit and Scrutiny Committee have been revised to bring them into line with recommendations detailed in CIPFA's 'Audit Committee Guidance for Local Authorities' and CIPFA's 'Position Statement on Audit Committees in Local Authorities'. In practice there will be no change to the functions undertaken by the Committee.
- 2.7 Audit and Scrutiny Committee is given delegated power to determine Asset Transfer Reviews. The Asset Transfer Request (Review Procedures) (Scotland) Regulations 2016 require that review hearings against refusal of an asset transfer or conditions are heard by a Committee. Cabinet would make the original decision on whether to approve an asset transfer request. As the Audit and Scrutiny Committee sits in appellate capacity, where it has heard evidence from parties, its decision would be final.
- 2.8 Ayrshire Shared Services Committee- the Committee is given power to create a Sub-Committee. This is intended to facilitate the development of the pan Ayrshire Economic Pathfinder, which will require a sub-committee to be created to in order to include sufficient external representation.
- 2.9 Staffing and Recruitment Committee. The main change is to set out the joint arrangements with NHS Ayrshire and Arran to appoint Chief Officers of the Health and Social Care Partnership. Another change in both this section and the Scheme of Delegation to Officers, is to provide that all applications for voluntary early release, including those of Teachers and Chief Officers would be delegated to officers as long as in accordance with Council policy on early release. Any request for early release of a Chief Officer which did not accord with policy would still require to be determined by the Staffing and Recruitment Committee
- 2.10 Integration Joint Board- A number of changes were required as a result of the implementation of the Carers (Scotland) Act 2016.

## **Scheme of Delegation to Officers**

- 2.11 The Scheme of Delegation to Officers lists the functions delegated to individual Directors and the Head of Democratic Services. In turn those officers can delegate these functions to other officers within their services. As previously, the Scheme of Delegation to Officers provides that any functions which are not otherwise reserved to Council or Committee, will be dealt with by officers. It also retains the core provision that delegated powers should not be exercised by Officers where any decision would represent a departure from Council policy or procedure or would be contrary to a standing instruction of Council (or Committee), or would itself represent a significant development from policy or procedure. The only exception to this is in the case of urgency where the Officer may, after consultation with the relevant Cabinet Portfolio Holder or Convenor of the appropriate Committee, exercise delegated powers. Should such powers be exercised in urgent circumstances, a report will be submitted to the next appropriate Committee for noting.
- 2.12 The main revisions which have been made in comparison with the previous Scheme of Delegation to Officers are:-
- ) To reflect the transfer, as a result of restructuring, of functions between and within Directorates;
  - ) As detailed in 2.7, clarity is provided that any application for voluntary early retirement or redundancy, including those from teachers, can be authorised if it is in accordance with approved policies on early release
  - ) To include new legislation or new functions not included in the previous Scheme; and
  - ) Planning call-in procedures, as detailed in 2.2 of this report, are referenced
  - ) The Executive Director of Economy and Communities is given power to appoint the Chief Officer and/or individual officers of Trading Standards Scotland (TSS) as officers of the Council, and to authorise them to exercise specific Trading Standards powers, whether in perpetuity, on a time-limited basis or for the duration of a particular operation. This is intended to address GDPR issues involved in the sharing of the TSS intelligence database.

## **Guidelines on Member Officer Relations**

- 2.13 The Guidelines on Member Officer Relations set out the way in which Members and officers of the Council should behave towards one another. They define the roles and responsibilities of Members and Officers. They incorporate the model Protocol for Relations between Councillors and Employees which comprises Appendix C of the Councillors Code of Conduct. The main revisions which have been made in comparison with the previous Guidelines are:-
- ) Updates to Data Protection duties under the General Data Protection Regulation;

- J Reference is made to the Standards Commission's 'Advice Note for Councillors on Distinguishing between their Strategic Role and any Operational Work';
- J Reference is made to the recent Advice Note issued by the Standards Commission for Scotland on 'The Application of Article 10 of the ECHR and the Councillors' Code of Conduct'.

### **Standing Orders Relating to Contracts**

- 2.14 The Council's procurement rules are set out in the Standing Orders relating to Contracts. The main revisal which have been made in comparison with the previous Contract Standing Orders is in paragraph 14.13, where provision has been made for Public Social Partnerships, involving the third sector.

## **3. Proposals**

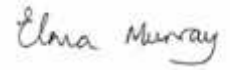
- 3.1 It is recommended that Council review and approve with effect from 1 July 2018, the revised  
 1) Standing Orders for Meetings and Proceedings of the Council attached at Appendix 1;  
 (2) the Scheme of Administration attached at Appendix 2; (3) the Scheme of Delegation to Officers attached at Appendix 3; (4) the Guidelines on Member/Officer Relations attached at Appendix 4; and (5) the Standing Orders for Contracts attached at Appendix 5.

## **4. Implications**

<b>Financial:</b>	Approval of the key governance documents is an essential component of the Council's financial governance arrangements
<b>Human Resources:</b>	There are no implications
<b>Legal:</b>	Approval of the key governance documents is an essential component of the Council's legal and administrative arrangements
<b>Equality:</b>	There are no implications
<b>Children and Young People:</b>	There are no implications
<b>Environmental &amp; Sustainability:</b>	There are no implications
<b>Key Priorities:</b>	Clear, transparent governance arrangements promote good decision making. In turn this supports the achievement of the key priorities
<b>Community Benefits:</b>	There are no implications

## **5. Consultation**

- 5.1 There has been consultation with Executive Directors and Members regarding the documents.

A handwritten signature in cursive script that reads "Elma Murray".

Elma Murray OBE  
Chief Executive

For further information please contact Andrew Fraser, Head of Democratic Services on 01294 324125.

## **Background Papers**