

## REPORT TO ABERDEENSHIRE COUNCIL – 14 JANUARY 2021

### ANNUAL REVIEW OF SCHEME OF GOVERNANCE

#### 1 Reason for Report

- 1.1 To notify Full Council of proposed changes to the Scheme of Governance which have been highlighted as part of the annual review.

#### 2 Recommendations

**Full Council is recommended to:**

- 2.1 **Consider the proposed changes to Parts 1, 2 and 3 of the Scheme of Governance at Appendix 1;**
- 2.2 **Agree to suspend Standing Order 9.1 to dispense with the two stage process in respect of the changes to the remit for procurement of utilities contracts to enable the remit to be transferred to Business Services Committee with immediate effect;**
- 2.3 **Note that a further report will be submitted to the next meeting of Full Council on 11 February 2021 seeking approval for the remaining changes; and**
- 2.4 **Note the proposal to revise the Guidance on use of Skype for Business at Council Meetings under Part 4 of the Scheme of Governance which will be reported back to a future meeting for approval.**

#### 3 Purpose and Decision Making Route

- 3.1 Full Council receives an annual report with proposed changes to the Scheme of Governance which are identified throughout the year in the course of business and in consultation with services across the Council.
- 3.2 Historically the Procedures Committee has had the remit to make recommendations to Full Council on any changes to the Scheme. However at its meeting on 10 June 2020, Full Council [agreed to establish the Recovery Reference Group](#) (“RRG”) to provide strategic oversight of the Council’s transition from the response phase of Covid-19. In view of the nature of the RRG’s work it was envisaged that there may be a need to pursue changes to the Scheme of Governance in order to respond to the changing nature of the environment in which decisions will be required. Full Council therefore agreed that it would be appropriate to transfer the remit of the Procedures Committee to the RRG until further notice.
- 3.3 The RRG has therefore taken on the remit of the Procedures Committee until such time as Full Council agrees otherwise. The Group considered the

proposed changes to the Scheme of Governance outlined in Appendix 1 at its meetings on 29 October 2020 and 10 December 2020. Their comments have been incorporated into the proposed changes.

- 3.4 In accordance with Standing Order 9.1, the purpose of this report is to notify Full Council of the proposed changes to Parts 1, 2 and 3 of the Scheme of Governance as recommended by the RRG. Thereafter a further report will be submitted to the next meeting of Full Council on 11 February 2021 requesting that Members resolve to agree the changes. It is however recommended that Full Council suspend Standing Order 9.1 to dispense with the two stage notification in respect of the proposed changes outlined at 4.1(v) of this report which transfer the remit for utility contracts to Business Services Committee. The reason for this is to enable the changes to be implemented in respect of the Procurement Plans for 2020/2021 which are due to be reported to Policy Committees in February and March 2021.

## **4 Discussion**

### **Impact of Covid-19 Pandemic on the Scheme of Governance**

- 4.1 It is important to highlight at the outset that, the majority of the changes proposed have been identified throughout the course of the Council's ordinary business and not as a direct consequence of issues arising from the Covid-19 pandemic. Since the onset of the pandemic the Scheme of Governance has allowed both officers and Elected Members to respond effectively to the needs of their communities through the use of existing delegations, whilst maintaining the democratic decision making process and principles of good governance.
- 4.2 On 18 March 2020 Full Council agreed an Emergency Addendum at Part 5 of the Scheme of Governance to allow for greater flexibility in the Council's governance structure, by allowing for wholly virtual meetings and making provision for a Consolidated Business Committee ("CBC") to be convened in the event that it became impossible to continue Council decision making through the existing structure. Due to the relative ease of the Council's transition into virtual meetings and consequent ability to continue operating Committees there has been no requirement as yet to call upon the CBC. However, it is considered that it would be appropriate to replace the current Vacation Committee with a CBC in order to ensure the Council can be equipped to respond to severe business disruption at short notice if such extreme circumstances were to occur in future. Further detail on this proposal is contained at paragraph (vi) below.
- 4.3 There are also proposed changes to the Standing Orders which have arisen from the Covid-19 response that formalise the provisions allowing for virtual meetings where required, as well as plans to amend the Guidance on the use of Skype for Business which is discussed further at paragraph 4.11 of this report.
- 4.4 Full Council will receive a separate report to this meeting on a review of the governance arrangements introduced in response to the pandemic. As part of that, Members will be asked to consider whether Part 5 can now be revoked. The proposed changes in this report seek to embed the good practice that

has arisen from Part 5 in order to future proof the Council's decision making structure.

### **Proposed Changes**

- 4.5 The proposed changes are set out in the appendices. Each proposal is highlighted in bold red, with an explanation as to the reasoning for the change set out below in a text box.
- 4.6 To ensure that the Scheme of Governance is always improving, the documents are continually reviewed for minor spelling or grammatical errors, renumbering, renaming, terminology that requires to be updated or legislation that requires to be added to an appendix of the Scheme. For example, changes to Chief Officers titles have been updated following recent staff restructures. These changes have not been highlighted, on the basis that these amendments are of a minor nature. Changes of particular note are explained below.

### **Part 1 - Standing Orders**

- (i) There have been amendments to the Standing Orders to reflect the increased use of online and electronic methods in response to the Covid-19 pandemic and following the decision of Full Council at its meeting on 24<sup>th</sup> September 2020. Standing Order 2.3 has been amended to introduce provision for publishing notice of a Council meeting online together with the arrangements for accessing the meeting remotely and to remove the requirement to provide agenda papers to Members by post.

The use of electronic papers has been the default position since the Covid-19 restrictions were introduced and following endorsement of this approach by Full Council it is considered appropriate at this stage, both from a sustainability perspective and having regard to the experience Members have gained to date in the use of electronic agendas, to confirm this in the Standing Orders as the preferred position for the Council going forward. This is subject to provision for paper agendas to be provided in exceptional circumstances, for example where a Chair requires a paper copy in order to enable them to chair a meeting effectively or if an equalities issue necessitates additional support.

- (ii) Standing Order 5.1 has been amended to remove the requirement for Chair of the meeting to be physically present at the meeting venue. At Standing Order 5.8 it is proposed that the requirement for there to be exceptional circumstances in order for a Member to take part in a meeting remotely should be removed, thereby allowing any Member to participate remotely, albeit still with the Chair's consent. Such consent will not be unreasonably withheld. Again, this is a reflection of what is likely to be an ongoing requirement for remote participation as the Council enters the recovery phase of the Covid-19 pandemic and it is considered necessary to ensure the Council's Standing Orders are fit

for purpose. Further discussion on the arrangements for remote meetings is detailed at Section 4.11 of this report.

## **Part 2A - List of Committee Powers**

- (iii) An addition to A.5 in terms of the powers reserved to Full Council clarifies its remit to approve the Council Plan and Priorities as well as the annual performance report. Further, revisions to A.10.3 seek the inclusion of the statutory role of Chief Planning Officer which will be implemented at a future date in line with the provisions of the Planning (Scotland) Act 2019.
- (iv) Changes are proposed to Section B.7 to clarify the wording around the Area Committee powers in respect of the determination of civic licensing applications and to remove reference to officers powers which should be restricted to Part 2B – List of Officer Powers. Furthermore, following the recent approval by the Licensing Sub-Committee of a policy on sexual entertainment venues in response to the new licensing regime it is proposed that these licences are dealt with centrally by the Sub-Committee following consultation with the relevant Area Committee, therefore removing them from the Area Committee remit.
- (v) Following a recommendation from Business Services Committee at its meeting on 27 February 2020 there are proposed amendments to Section C.2 to enable that Committee to take decisions on all procurements relating to the provision of utilities for Council properties, regardless of budget responsibility.

Due to the specialist nature of utilities contracts and the expertise and management that sits with the Energy Management Team it is considered that it would be an improvement to the procurement approval process if Business Services Committee is delegated to approve expenditure on utility contracts, as the Committee with the specific remit to manage Property and Facilities Management. This would also ensure that Committee would have an improved scrutiny and monitoring role, receiving notification in advance annually, with interim information reports, as necessary, throughout the year.

Many of the Council's utilities contracts are procured through Category 5 National Frameworks. The Council has signed an Agency Agreement to access these National Frameworks for the majority of its utility contracts which has been in place since 2009 and there are no plans to change this route. Scottish Procurement carries out the tender exercise for each of the frameworks on behalf of the entire public sector which includes all 32 local authorities, the NHS, Scottish Fire and Rescue and Police Scotland. This provides the Council with the benefits of bulk purchasing power for utility contracts such as improved rates of supply and terms and conditions as a whole. The Council would be unable to

obtain best value if it were to seek to procure these contracts on its own.

Notification of successful suppliers through the National Framework is often provided to the Council with limited notice, preventing timely notification via normal governance routes. Accordingly, further consideration will be given to how best to manage these contracts from a governance perspective, with proposals for any amendments that are deemed necessary coming forward in the next review of the Scheme of Governance.

- (vi) Reflecting on the impact of the Covid-19 pandemic, there are proposals to change the name of the Vacation Committee at Section L to the Consolidated Business Committee and extend the powers of that Committee to deal with any committee business in circumstances where the Chief Executive determines that it should be convened. The provisions would ensure that the Council is well-equipped to handle severe business disruption at short notice. A corresponding delegation has been added to the Chief Executive's powers in Part 2B – List of Officers Powers.

The Consolidated Business Committee would follow the same model as the current Vacation Committee, with a membership of 14 following current political proportionality of 8, 4, 2. The Chair and Vice Chair of the Committee would be the Provost and Deputy Provost. Full Council will be asked at its next meeting in February to agree the constitution of the Committee if these changes are agreed.

It is important to highlight that the Committee can only be convened by the Chief Executive in specific circumstances where there is a risk of serious damage to human welfare or environment or due to threat of war or terrorism, and only where it is impractical for Council business to continue through the existing Committee structure as a result. Consultation with the Provost, Deputy Provost, Leader, Deputy Leader, and Main Opposition Spokesperson would be required in advance of any decision by the Chief Executive, and in the event that a majority of those Members consulted disagreed with the proposal, the matter would require to be considered by Full Council.

The proposed changes do not alter the Area Committee's powers to hold their own vacation meeting to deal with any business arising during recess.

## **Part 2B – List of Officer Powers**

- (vii) To bring the officers powers in line with the Policy Development and Review Framework in Part 4B of the Scheme of Governance, a new power has been added at A.29. This will enable Chief Officers to update policy documents in respect of any changes to naming conventions, legislation or terminology.

- (viii) It is proposed that a new power is included in the general delegations at A.30 to allow for Chief Officers to delegate any of the powers they have under the Financial Regulations to suitably qualified officers. Chief Officers cannot currently delegate any authority they have under the Financial Regulations to officers within their service. It is considered a pragmatic approach to enable them to have this option, where appropriate, in order to ensure that business is being dealt with at an appropriate level and therefore ensuring that they can manage their service as efficiently as possible. It is important to highlight that accountability for any decision taken under a Chief Officer's sub-delegations remains with that Chief Officer and advice is provided by officers from Governance in the preparation of sub-delegations to ensure they meet the underlying principle of "right people, right place, right time".
- (ix) At Section 2.8, a new power is proposed for the Chief Executive to correspond with the powers of the proposed Consolidated Business Committee. Reference is made at (vi) above as to the reasoning for this change.
- (x) The powers delegated to the Head of Commercial and Procurement Services at Section D.2 have been updated to bring these in line with the requirements of the Financial Regulations and that officer's role in matters such as tender processes and officer training.
- (xi) Following the merger of Customer Communication and Improvement and Information and Communication Technology, additional powers have been identified for the Head of Customer and Digital Services to reflect the requirements of the new service.
- (xii) Proposals to transfer powers in relation to the approval of the acquisition and sale of Council property from the Head of Legal and People to the Head of Property and Facilities Management to reflect current practice, in that the latter will be approving the transactions in principle with the former undertaking the legal formalities thereafter. A new power has been included for the Head of Legal and People to finalise the terms of any acquisition or sale. This authority is frequently sought from Committees in relation to such transactions and it is therefore appropriate that such a recurring delegation is formalised in the Scheme.
- (xiii) In order to reflect current practice, amendments are proposed to the Head of Legal and People powers relating to licensing applications to reflect that applications with only adverse representations require committee approval.

### Part 3 Financial Regulations

- (xiv) Section 4.4.3 has been revised to reflect the proposed changes to the powers for the Head of Legal and People and Head of Property and Facilities Management.
- (xv) Section 4.15 in relation to Grants has been amended to remove the requirement for Committee approval in circumstances where the funding for the grant has been received from an external body for a specified purpose, thereby leaving little or no discretion as to how the Council distributes the funds. Often these types of funding arrangements have tight deadlines therefore removing this requirement would enable grant awards to be determined swiftly by the relevant Chief Officer. However it is recognized that there is value in Elected Member input as part of that process therefore there will be a requirement to consult with the Chair, Vice Chair and Opposition Spokesperson in the case of a Policy Committee, and the Chair and Vice Chair of an Area Committee in advance of the issue of any grant funding under the new provision.
- (xvi) Section 5.2.5 which requires consultation with the Strategic Leadership Team on consultant expenditure has been removed following a recommendation from Governance Officer Transition Implementation Taskforce (GOTIT) and replaced with a requirement to consult with the Head of Finance. This provision arose from a historical issue with consultancy spend which has since been addressed. It is considered that the requirements of the procurement approval process elsewhere in the Financial Regulations now provide sufficient governance, as any consultancy spend in excess of £50,000 would require to be approved on a procurement plan, with the relevant Committee having the ability to reserve approval of the Procurement Approval Form if they had sufficient concerns. The provisions of 5.2.5 do not reflect current practice and it is the view of officers that there are sufficient controls in place. Officers in Legal and Finance are currently working on a definition for consultants to provide clarity to officer on what is meant by this term for inclusion in the Glossary in Part 4 of the Scheme of Governance.
- (xvii) Section 5.2.7 has been amended for contracts which are cross-directorate and cross-area. Previously a Chief Officer had the delegated power to approve expenditure from the total amount applicable to their service if their contribution was less than £50,000. However, it is recognized that the entire expenditure in a cross-directorate and cross-area contract will be considered as a whole by the Lead Policy Committee, therefore approval by the Chief Officer will not be necessary. Accordingly, the provision has been amended to instead require consultation with the appropriate Chief Officer, to retain their input in the process as the officer with budget responsibility for the spend.

- (xviii) A new 5.2.8 has been included to reflect the new powers for Business Services Committee to approve utility contracts to correspond with the new delegation in the List of Committee Powers.
- (xix) At 5.3.1, a definition of Procurement Plan has been inserted into the Definitions section for the sake of clarity.
- (xx) A proposed change to Section 5.3.7 to require all contracts with a value of £10,000 or more to be included in the Contracts Register, as opposed to only those contracts with a value of £50,000 or more. This will ensure that all contractual information is being captured and therefore that the Council can better manage its contractual arrangements with a comprehensive Contracts Register.
- (xxi) A new Section 5.3.9 has been added to clarify that the total cost for a capital project will be treated as the Contract Value for the purposes of obtaining approval on a Procurement Plan and Procurement Approval Form. This reflects what currently happens in practice.
- (xxii) A proposed change to 5.3.39 confirms that call-off contracts from Framework Agreements must be added to the Council's Contracts Register.

### **Contract Thresholds in the Financial Regulations**

- 4.7 A proposed change to the Financial Regulations to tidy up the wording in relation to contract variations and extensions prompted discussion at the Recovery Reference Group on thresholds for reporting back to Committees. Presently, where a Committee has approved spend on a contract, the relevant officer would have the delegation to approve a contract variation or extension, provided any additional spend on the contract doesn't exceed 25% of what was agreed by Committee. The only exception would be where the approved spend by Committee was less than £1 million and any additional spend on the contract as a result of the variation or extension is now going to exceed £1 million, in which case Committee approval would be required regardless.
- 4.8 This is a general principle which also applies elsewhere in the Financial Regulations. Where a Committee approves estimated spend on a contract, thereby allowing the tender process to proceed, the relevant officer would have the delegation to approve the subsequent award of contract provided the final contract value doesn't exceed more than 25% of the estimated spend approved by Committee (or exceed £1 million where the estimated spend approved by Committee was less than that sum).
- 4.9 The Recovery Reference Group expressed some concern regarding the 25% threshold, noting that it could mean significant sums for high value contracts being approved by officers. It is perhaps important to highlight to Members that any contract approval must be subject to budget being available. If there is no budget allocated for a particular contract, funding would have to be sought either from the relevant Committee or from Full Council depending on

the circumstances. It was proposed that a £1 million cap could be placed on the 25% threshold to address concerns regarding high value contracts. However the Group have suggested that alternative options should be considered, for example a tiered system of percentages that are dependent on the contract value.

- 4.10 Whilst some initial discussion has been had with officers in this regard, it is a complex matter in view of the variety of contracts the Council is involved with. It is therefore clear that alternative options will require to be worked through in order to fully test the implications for the procurement process and enable officers to provide Elected Members with informed recommendations for consideration. This process would ordinarily involve discussion with Governance Service Champions and key stakeholders in the procurement process including Finance and Commercial and Procurement. Input from Elected Members may also be sought in the development of options through workshops. Due to the tight timescales since the meeting of the Recovery Reference Group on 10 December and the impact of festive annual leave on officer availability, it has not been possible to complete this piece of work and it is therefore suggested that a further report is brought back to the Recovery Reference Group (or Procedures Committee in the event that the Recovery Reference Group is dis-established) at its first meeting in the new year with options on alternative thresholds for consideration, once these have been fully considered and worked through. Thereafter recommendations will be made to Full Council on any changes to the Scheme of Governance if required.

4.11 **Guidance on the use of Skype for Business at Council Meetings\_**

The [Guidance on use of Skype for Business at Council Meetings](#) at Part 4 of the Scheme of Governance was developed in the context of virtual attendance in exceptional circumstances. It did not envisage the concept of a fully virtual meeting. The Emergency Addendum therefore included provision for alternative procedures for remote meetings to be agreed between the Chair and the Committee Officer. To ensure a consistent approach and to complement the provisions in the Standing Orders, procedures for both officers and Elected Members have been developed for use across all Committees and Full Council, following consultation with elected Members and officers, and taking into account the knowledge and experience gained through the meetings held to date.

- 4.12 Some sections of the Guidance on Skype for Business have now been superseded in part by the new procedures which have developed by necessity in response to the move to virtual meetings and the experience gained as a result. It would therefore seem timely at this stage to review the Guidance, taking into account the content of the procedures currently in place, and produce an updated document which reflects the new environment in which the Council is operating, with an increased focus on virtual participation which will likely continue into the recovery period and beyond.
- 4.13 The Guidance is contained within Part 4 of the Scheme of Governance. Accordingly under Standing Order 9.2 there is no requirement to give Full Council prior notification of any changes. Officers will therefore report back to Full Council with the revised document for approval.

## 5 Council Priorities, Implications and Risk

- 5.1 This report helps deliver the six Strategic Priorities within the three Pillars “Our People”, “Our Environment” and “Our Economy” and promotes the principle that underpins them of “right people, right place, right time”. Having the best possible Scheme of Governance provides a strong and robust decision making structure that in turn enables delivery of all six priorities.
- 5.2 The table below shows whether risks and implications apply if the recommendations are agreed.

Subject	Yes	No	N/A
Financial		x	
Staffing		x	
Equalities	EIA attached as Appendix 2		
Fairer Scotland Duty	EIA attached as Appendix 2		
Town Centre First			x
Sustainability			x
Children and Young People’s Rights and Wellbeing			x

- 5.3 An equality impact assessment has been carried out as part of the development of the proposals set out above. It is included as **Appendix 2** and a positive impact has been identified.
- 5.4 The following Risks have been identified as relevant to this matter on a Corporate Level:

ACORP004 - Business and organisational change (including- ensuring governance structures support change; and, managing the pace of change) [Corporate Risk Register](#).

No Risks have been identified as relevant to this matter on a Strategic Level.

## 6 Scheme of Governance

- 6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

6.2 Full Council is able to consider and take a decision on this item in terms of A.2.3 of the List of Committee Powers in Part 2A of the Scheme of Governance as the matter relates to the review and amendment of the Scheme of Governance.

**RITCHIE JOHNSON, DIRECTOR OF BUSINESS SERVICES**

Report prepared by Ruth O'Hare, Acting Legal Service Manager (Governance)

Date 29 December 2020

**List of Appendices**

Appendix 1	Proposed Changes to Scheme of Governance
Appendix 2	Equality Impact Assessment

## APPENDIX 1

### Part 1 – Standing Orders

#### 2.3 Calling Meetings

1. For all Meetings other than those of an Area Committee a notice will be published **online and, where possible**, at the Council offices at least seven calendar days before the date of the Meeting, which will:-

a. Detail the time and, **where relevant, the** place of the Meeting **together with access arrangements where appropriate**; and

b. If it is a Special Meeting, name the Members who have called the Meeting.

2 In addition to the notice, a summons specifying the business to be transacted at the Meeting and signed by the Director of Business Services shall be sent to:-

a. Members electronically by e-mail to their Aberdeenshire Council e-mail address **or, in exceptional circumstances, by post to their usual residence or to another address which the Member has given in writing to the Director**, ~~or by post to their usual residence, or to another address which the Member has given in writing to the Director~~; and

b. External members by post to their usual residence, ~~or to another address which the external member has given in writing to the Director~~ **electronically by secure email to the email address which the external member has given in writing to the Director.**

*These changes to the Standing Orders confirm the arrangements agreed by Members to continue with electronic agendas, with paper agendas only issued in exceptional circumstances. The amendments also reflect the requirements for online meetings in terms of publication of agendas.*

#### 5.1 Arrangements for Chairing Meetings

1. At a Meeting the Chair, ~~if physically present at the meeting venue~~ will preside.

2. If the Chair is absent from a Meeting ~~or attending remotely~~, the Deputy/Vice Chair will preside; if they are both absent ~~or attending remotely~~, another Member chosen by the Members present that day ~~who is physically present at the meeting venue~~, will preside.

8. The Chair may, ~~by exception~~, allow any Member to participate and vote in a Meeting although not actually present at the location where the Meeting is being held by way of teleconference, video conference ~~or otherwise~~. **the**

**Council's agreed technology. The Chair's consent shall not be unreasonably withheld.**

*This removes the requirement for a Chair to be physically present at a meeting venue, and for there to be exceptional circumstances in order for a Member to participate in a meeting remotely, in reflection of the increased use of online technology following the Covid-19 pandemic. It also clarifies that consent for a Member to participate virtually will not be unreasonably withheld.*

## 6.1 Public Access to Meetings

2. Meetings may be webcast by the Council. Otherwise, no person or body shall be permitted, without the permission of the Meeting, to ~~tape~~ **audio** record, photograph, video, film or use any other form of electronic, digital or computerised sound or visual recording system during any Meeting.

*A minor change to update terminology.*

## Part 2A - List of Committee Powers

### A. FULL COUNCIL

#### 5. Corporate

- 5.1 The review, endorsement and approval of the Strategic and Local Development Plans, Local Housing Strategy, Local Transport Strategy and all other documents as the Council may decide.

#### **5.2 The review and approval of the Council Plan and Priorities, including consideration of the annual performance report on progress.**

- 5.2 To endorse the Annual Accounts and Accounts Report

*This confirms current practice in terms of Full Council's approval of the Council Plan and Priorities, and review of the annual performance report.*

## 10. Human Resources

- 10.3 Appointment of the Head of Paid Service, Monitoring Officer, Section 95 Officer, Chief Social Worker, **Chief Planning Officer** and Chief Education Officer as Proper Officers of the Council.

*This change reflects the upcoming implementation of the Planning (Scotland) Act 2019 in terms of the statutory requirement to appoint a Chief Planning Officer.*

## B. AREA COMMITTEES

### 7. Licensing

~~7.1 The matters listed in sections 7.2 – 7.3 shall be delegated to officers of the Council unless adverse representations or objections have been lodged or there is an officer recommendation that an application be refused.~~

**7.12** To exercise the Council's functions in terms of the Civic Government (Scotland) Act 1982, as amended, **where adverse representations or objections have been lodged, or there is an officer recommendation that an application be refused**, in relation to:

- a. Boat Hire Licences.
- b. Itinerant Metal Dealers Licences.
- c. Knife Dealers Licences.
- d. Late Hours Catering Licence.
- e. Market Operators Licence.
- f. Metal Dealers Licences.
- g. Public Charitable Collections.
- h. Public Entertainment Licences.
- i. Public Processions.
- j. Second Hand Car Dealership.
- k. Sex Shop Licences.
- ~~l. Sexual Entertainment Licences.~~
- m. Skin Piercing and Tattoo Licences.
- n. Street Trader's Licences.
- o. Taxi Booking Office Licences.
- p. Window Cleaner's Licences.

**7.2** To grant, revoke, refuse, vary or renew all miscellaneous licences and registrations for its Area **where adverse representations or objections have been lodged, or there is an officer recommendation that an application be refused**, including:

- a. Animal Boarding Establishments.
- b. Caravan parks and sites.
- c. Cinemas.
- d. Dog Breeding Establishments.
- e. Explosives.
- f. Hypnotism Permission.
- g. Performing Animals.
- h. Pet Animals.
- i. Petroleum Storage Certificates and Licences.
- j. Riding Establishments.
- k. Venison Dealers Licences.
- l. Zoos.

*This simply tidies up the wording around the determination of civic licensing applications, making it clear that Area Committees are dealing with applications where there are objections or adverse representations or an officer recommendation for refusal. It also reflect the recommendations in relation to the determination of licences for sexual entertainment venues which will be transferred to the Licensing Sub-Committee.*

## C BUSINESS SERVICES COMMITTEE

### 2 Finance

#### 2.10 Where;

- i a matter, item or project is to be funded from approved annual Capital Plan or Revenue Budget, Council reserve and/or statutory funds and relates to the services and functions referred to in 1 above and delegated to the Committee; or
- ii where the Committee has been appointed Lead Policy Committee (being the committee with the greatest budget contribution) for a cross directorate and/or cross area contract, **or**
- iii **where the matter relates to the provision of utilities for any of the Council's operational properties, including but not limited to, electricity, gas, oil, liquid petroleum gas, biomass, energy supply metering and water.**

*This change follows a recommendation from Business Services Committee. Due to the specialist nature of utilities contracts, it is considered an improvement to the procurement approval process for that Committee to have the specific remit to deal with them, as the expertise and management sits with the Energy Management Team within Property and Facilities Management, which falls under that Committee's remit. This would also ensure that this Committee would have an improved scrutiny and monitoring role, receiving notification in advance annually, with interim information reports, as necessary, throughout the year.*

## L ~~VACATION COMMITTEE~~ **CONSOLIDATED BUSINESS COMMITTEE**

### 1. Committee Functions

1.1 The ~~Vacation Committee~~ **Consolidated Business Committee** shall have power to decide on all ~~urgent matters arising during the Council's vacation period requiring a decision to meet an externally-imposed timetable prior to the next ordinary meetings of the Council or its Committees~~ **any matter arising where it is not practical to convene a meeting of Full Council, or the relevant Committee, subject to the provisions at 1.2 and 1.3.**

~~1.2 Any matters arising during the vacation period, which are normally delegated to an Area Committee in terms of the List of Committee Powers, or which have been specifically delegated to an Area Committee by the Council or by a Policy Committee and which require a decision prior to the next ordinary meeting of that Area Committee, should, where possible, be decided at a vacation meeting of the Area Committee.~~

### **1.2 The Consolidated Business Committee shall only be convened in the following circumstances:-**

- a. **Where there are matters arising during the Council's vacation period requiring a decision to meet an externally-imposed timetable prior to**

the next ordinary meetings of the Council or its Committees, provided that any matters which are delegated to an Area Committee and require a decision prior to the next ordinary meeting of that Committee should, where possible, be decided at a vacation meeting of the Area Committee, or

b. Where in the professional opinion of the Chief Executive, it is impractical to continue the business of the Council through the existing Committee structure, due to any of the following circumstances:-

- (i) an event or situation which threatens serious damage to human welfare in the Aberdeenshire area; or
- (ii) an event or situation which threatens serious damage to the environment of the Aberdeenshire area; or
- (iii) war, or terrorism, which threatens serious damage to local or national security,

the Chief Executive may exercise the powers delegated in Part 2B of the Scheme of Governance to recall on behalf of the Full Council, in whole or in part, and following consultation with the Provost, Depute Provost, Leader, Depute Leader, and Main Opposition Spokesperson, any of the delegations contained within Part 2A of the Scheme of Governance and transfer same to the Consolidated Business Committee.

**1.3 The Consolidated Business Committee shall have to power to establish sub-committees to determine any matters within its remit.**

*The concept of the Consolidated Business Committee was established by the Emergency Addendum at Part 5 of the Scheme of Governance which was agreed by Full Council in March in response to the Covid-19 pandemic. These changes introduce the CBC as an enhanced form of the Vacation Committee, with the ability to deal with matters during recess where it would be impractical to call a meeting of Full Council and also be called upon by the Chief Executive in the event that it is impossible to continue the business of the Council through the existing Committee structure. The exception would be vacation meetings for Area Committees which would still continue. A corresponding power for the Chief Executive to convene the CBC has been included in Part 2B, below.*

## **Part 2B – List of Officer Powers**

**A. GENERAL DELEGATIONS TO CHIEF EXECUTIVE, DIRECTORS, CHIEF OFFICER OF THE INTEGRATION JOINT BOARD, AREA MANAGERS AND THE HEADS OF SERVICE ('the Chief Officers')**

**A.29 To update any Council policy for which they are responsible to reflect changes in naming conventions, legislation or terminology.**

**A.30 Delegate any of their powers under the Financial Regulations in Part 3 of the Scheme of Governance to a suitably qualified officer.**

*The additions to the general powers delegated to Chief Officers reflect the duties of those officers under the Policy Review and Development Framework at Part 4 of the Scheme of Governance, and clarify that Chief Officers can sub-delegate powers under the Financial Regulations to ensure business can be conducted efficiently.*

**C. CHIEF EXECUTIVE**

**2. Specific Delegations**

Subject to the General Provisions and Limitations as appropriate and in addition to the General Delegations, the Chief Executive has the following powers to:

**2.8 to recall any of the delegations contained within the List of Committee Powers in Part 2A of the Scheme of Governance and transfer to the Consolidated Business Committee where, in the professional opinion of the Chief Executive, it would be impractical to continue the business of the Council through the existing Committee structure due to any of the following circumstances:-**

- (i) an event or situation which threatens serious damage to human welfare in the Aberdeenshire area; or**
- (ii) an event or situation which threatens serious damage to the environment of the Aberdeenshire area; or**
- (iii) war, or terrorism, which threatens serious damage to local or national security,**

**Provided that this delegation shall only be exercised following consultation with the Provost, Depute Provost, Leader, Depute Leader, and Main Opposition Spokesperson. Where a majority of those Members consulted do not agree with the recommendations, the Chief Executive shall instead refer the matter to Full Council for determination.**

*This reflects the new provisions in relation to the Consolidated Business Committee under Part 2A – List of Committee Powers, giving the Chief Executive to power to convene that Committee in exceptional circumstances and following consultation with the named Members.*

**D. DIRECTOR OF BUSINESS SERVICES**

**2. Commercial and Procurement Services**

Subject to the General Provisions and Limitations and in addition to the General Delegations, the Head of Commercial and Procurement Shared Services is authorised to:

- 2.16 Delegate procurement authority to officers (to be known as “Procuring Officers”) and maintain a register of Procuring Officers.**
- 2.17 Remove any officer from the register of Procuring Officers.**
- 2.18 Develop, issue and monitor the Procurement Manual and any associated guidance, procurement templates and associated documentation in accordance with the requirements of the Council’s Financial Regulations.**
- 2.19 Approve methods for advertisement of a contract where the value of the contract is £10,000 or over, other than by advertisement on the Public Contracts Scotland website or such equivalent approved by the Scottish Government.**
- 2.20 Approve methods for receipt and recording of tenders, other than by electronic means.**

*These changes align the powers the Head of Commercial and Procurement Services has under the Financial Regulations with those delegated to him in the List of Officer Powers.*

### **3 Customer Communication and Digital Services**

Subject to the General Provisions and Limitations and in addition to the General Delegations, the Head of Customer and Digital Services is authorised to:

- 3.11 Manage the function, configuration and operation of the Council’s Information Technology (“IT”) infrastructure, systems and data to ensure their effectiveness, availability, integrity and security.**
- 3.12 Oversee the accessibility of all council-related websites,**
- 3.13 Provide appropriate technical and professional support, advice and assistance on the purchase of any IT software and hardware.**
- 3.14 Approve new, and changes to IT and Information Security procedures and guidance including Third Party Access Agreements.**
- 3.16 Lead and approve the functions and provision of Corporate Change Management activity and guidance across the organisation, including Digital Strategy development, Service Redesign and Business Change.**

*Following the merger of the Customer Communication and Digital Service with Information and Communication Technology, the powers of the Head of Service have been reviewed and additional powers proposed to reflect the current position.*

## 8. Legal and People

~~8.8 Following consultation with the Head of Property and Facilities Management, grant leases, sub-leases, occupancy agreements or licences under 21 years in duration or where the Council's commitment is no greater than 21 years at any given time and where the initial rent is less than £30,000 per annum.~~

~~8.12 Following consultation with the Head of Property and Facilities Management, enter into property leases or licences of up to 6 years in duration, or where the Council has rights to break the lease such that no period without a Council right to break exceeds 6 years, where the initial rent is less than £30,000 per annum (to fit with Financial Regulations) and where the project is contained within an approved budget.~~

~~8.13 Following consultation with the Head of Property and Facilities Management, approve the acquisition of heritable property at and under £50,000 in value.~~

~~8.14 Following consultation with the Head of Property and Facilities Management, approve the sale, or granting of a grassum lease of heritable property at and under £100,000 in value.~~

8.16 **Finalise terms for the acquisition, sale, or granting of a grassum lease of heritable property or any lease, sub-lease, occupancy agreement or licence after approval in principle by the relevant Committee or Head of Property and Facilities Management.**

8.26 Grant applications under Part II of the Civic Government (Scotland) Act 1982 where no objections or **adverse** representations are received.

8.27 Grant permission for public processions and street collections, where no observations or objections **s or adverse representations** have been received.

8.32 Grant any licence for a period of less than 3 years where no objections or **negative adverse** representations have been received which would otherwise cause the application to go before the Committee.

*The proposed changes to the powers for the Head of Legal and People align with the amendments to the Head of Property and Facilities Management and confirms the current practice whereby the Head of Property and Facilities Management seeks the approval in principle for property transactions with the Head of Legal and People finalizing the terms of the agreements. The changes to the powers in relation to licensing applications simply ensure that the terminology aligns with the relevant legislative provisions and the wording of Part 2A – Part of Committee Powers.*

## 9. Property and Facilities Management

9.11 **Approve leases, sub-leases, occupancy agreements or licences under 21 years in duration or where the Council's commitment is no greater than 21 years at any given time and where the initial rent is less than £30,000 per annum.**

- 9.12 Enter into property leases or licences of up to 6 years in duration, or where the Council has rights to break the lease such that no period without a Council right to break exceeds 6 years, where the initial rent is less than £30,000 per annum (to fit with Financial Regulations) and where the project is contained within an approved budget.**
- 9.13 Approve the acquisition of heritable property at and under £50,000 in value.**
- 9.14 Approve the sale, or granting of a grassum lease of heritable property at and under £100,000 in value.**

*These changes reflect the amendments to the powers delegated to the Head of Legal and People as noted above.*

### **PART 3 – FINANCIAL REGULATIONS**

#### **4.4 Heritable Property**

- 4.4.3 The advertising of property for lease and the initial consideration of offers shall be dealt with by the appropriate Committee or Chief Officer, on reports from the ~~Head of Legal and People following consultation with the Head of Property and Facilities Management. in accordance with the Scheme of Governance, Part 2B, paragraphs 8.12 to 8.20.~~

*This amendment reflects the changes to Part 2B – List of Officer Powers as noted above.*

#### **4.15 Payment of Grants and Subsidies**

- 4.15.1 Subject to compliance with Regulation 4.16 and the Scheme of Governance, Chief Officers shall have authority to award grants included in the approved Revenue Budget for the service or services for which they are responsible of less than £50,000 and the relevant Policy Committee shall have authority to award grants of £50,000 or more.

- 4.15.7 The threshold in 4.15.1 does not apply to:-

- (a) grants from the European Regional Development Fund, European Social Fund and LEADER; or**
- (b) grants which are provided through funds given to the Council from an external body for the sole purpose of seeking to achieve a specific aim or purpose identified by that external body.**

The relevant Chief Officer has the delegation to approve, allocate and authorise these grants in accordance with the agreed legal obligations **and in respect of grants approved under 4.15.7(b) following consultation with the Chair, Vice Chair and Opposition Spokesperson of the relevant Policy Committee, or the Chair and Vice Chair of the relevant Area Committee.**

*This removes the requirement to report to Committee in respect of the award of grant funding where the funding is provided by an external body, for a specified purpose thereby leaving little or no discretion in terms of how the funds should be distributed. However the Chief Officer must consult with the Elected Members specified prior to agreeing the award.*

## 5.2 Authority to Incur Expenditure

~~5.2.5 Expenditure on Consultants that is estimated to be £50,000 or more may not be incurred until after consultation with the Strategic Leadership Team and the approval of the Head of Finance is received.~~ **Expenditure on Consultants that is estimated to be £50,000 or more may not be incurred until after consultation with the Head of Finance.**

*The existing provision reflects historic issues with consultancy fees and the proposed change more accurately reflects what now happens in practice.*

5.2.7 For a contract of £50,000 or more that is cross-directorate and cross-area, there is no requirement for each policy committee which makes a budgetary contribution to approve the expenditure on a directorate procurement plan. The policy committee with the greatest budgetary contribution will be the lead policy committee and this committee has the delegated power to approve all of the expenditure on that contract provided

- a. That if the budgetary contribution of the other policy committee(s) is less than £50,000 then the appropriate Chief Officer ~~has the delegated power to approve that part of the expenditure on the contract~~ **must be consulted, prior to the determination of the expenditure on the contract.**
- b. That the Chair, Vice-Chair and relevant opposition spokesperson of the other policy committee(s) with a budgetary contribution of £50,000 or more to the contract must be consulted and the results of the consultation must be reported to the lead policy committee, prior to the determination of the expenditure on the contract.

*This change clarifies that where there is a cross-Committee procurement, the Head of Service with authority to approve their element of the spend will be consulted prior to the determination of the expenditure on the contract.*

**5.2.8 For a contract of £50,000 or more that relates to the provision of utilities for any of the Council's operational properties, including but not limited to, electricity, gas, oil, liquid petroleum gas, biomass, energy supply metering and water, the policy committee with responsibility for Property and Facilities Management has the delegated power to approve all of the expenditure on that contract, regardless of budget responsibility.**

*This reflects the additional power delegated to Business Services Committee in Part 2A of the List of Committee Powers in terms of approving utilities contracts.*

### **Definitions**

5.3.1 The following definitions will apply to regulation 5.3:

**Procurement Plan means a formal report for the approval of a Committee (conforming to a template approved by the Head of Commercial and Procurement Services) with a list of proposed procurements.**

*This amendment provides a definition of "Procurement Plan" which is currently absent.*

### **Procuring Officers and Guidance**

5.3.7 Procuring Officers shall notify the Head of Commercial and Procurement Services of details of all Contracts with a Contract Value of £150,000 or more for which they are responsible (a) which have been entered into by the Council during the current financial year (with sufficient information to enable the Head of Commercial and Procurement Services to maintain an accurate and up to date Contracts Register) and (b) prior to 31 March, details of all proposed Contracts for which they will be responsible during the next financial year. All information to be provided in a format approved by the Head of Commercial and Procurement Services.

*This change reflects a recent audit recommendation for contracts with a value of £10,000 or more to be added to the Contracts Register.*

### **Aggregation of Contracts**

5.3.8 Where a Contract is one of a series of similar Contracts, across the Council for the same category of goods, or specific requirements needed to complete a project, the value of each must be aggregated to determine the relevant Contract Value. In the foregoing circumstances the Procuring Officer should seek guidance from the Head of Commercial and Procurement Services before proceeding. The splitting of requirements into smaller lots or orders or shorter contract periods in an attempt to avoid the Contract Value limits in these regulations is expressly prohibited.

**5.3.9 For expenditure on capital projects, the total estimated capital cost of the project(s) including fees, furniture and equipment and other ancillary costs shall equate to the relevant Contract Value.**

*The amendment reflects current practice whereby approval on a procurement plan or procurement approval form is often sought for the entirety of a capital project cost, as opposed to the individual contracts.*

### **Framework Agreements**

5.3.39 Provided there is Committee approval to incur expenditure from the framework agreement, a call-off from that framework with a Contract Value that is less than the Committee Threshold is not required to be on a procurement plan but must comply with regulation 5.3.12 **and must be recorded in the Council's Contracts Register in accordance with regulation 5.3.7.**

*This change clarifies that call-off contracts from frameworks should be logged on the Contracts Register.*

## APPENDIX 2 - EQUALITY IMPACT ASSESSMENT

EIA Version	Date	Author	Changes
1	29.12.2020	Ruth O'Hare	N/A
Stage 1: Title and aims of the activity ("activity" is an umbrella term covering policies, procedures, guidance and decisions including those that affect services the council delivers).			
Service	Legal and Governance		
Section	Governance		
Title of the activity etc.	Annual Review of the Scheme of Governance		
Aims and desired outcomes of the activity	Update and improvement of the Council's constitutional framework.		
Author(s) & Title(s)	Ruth O'Hare, Acting Legal Service Manager (Governance)		

Stage 2: List the evidence that has been used in this assessment and explain what it means in relation to the activity you are assessing.		
Evidence	What does it say?	What does it mean?
Internal data (customer satisfaction surveys; equality monitoring data; customer complaints).	Recommendations from Recovery Reference Group Data collection by Monitoring Solicitors	The review of the Scheme as an activity is a continuous process of improvement. The required engagement with Elected Members and officers ensures an appropriate level of consultation.
Internal consultation with staff and other services affected.	All Services were consulted via Governance Service Champions. Strategic Leadership Team were consulted. Internal Audit were consulted	As above

External consultation (partner organisations, community groups, and councils).	n/a	
External data (census, available statistics).	n/a	
Other (general information as appropriate).	Legislation changes have required updates and amendments to be made to the Scheme of Governance.	

**Stage 3: Evidence Gaps.**

Are there any gaps in the information you currently hold?	No
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**Stage 4: Measures to fill the evidence gaps.**

What measures will be taken to fill the information gaps before the activity is implemented? These should be included in the action plan at the back of this form.	Measures:	Timescale:
	N/A	

**Stage 5: What steps can be taken to promote good relations between various groups/areas?**

These should be included in the action plan.	N/A
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**Stage 6: How does the policy/activity create opportunities for advancing equality of opportunity?**

N/A
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## Stage 7a:

Are there potential impacts on protected groups?

The protected groups covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Who is affected by the activity or who is intended to benefit from the proposed activity and how?

Complete the table below for each protected group by inserting "yes" in the applicable box/boxes below.

	Positive	Negative	Neutral	Unknown
Age – Younger/Older			X	
Age - Older			X	
Disability	X			
Race – (includes Gypsy Travellers)			x	
Religion or Belief			x	
Sex				
Pregnancy and maternity			x	
Sexual orientation – (includes Lesbian/ Gay/Bisexual)			x	
Gender reassignment – (includes Transgender)			x	
Marriage and Civil Partnership			x	

Stage 7b: Do you have evidence or reason to believe that this policy, activity etc. will or may impact on socio-economic inequalities?

This is about trying to be fair to everyone. Part of that is realising that not everyone may be starting at the same place. Some individuals and families may have low income, may have very little or no savings which means they are living from month to month therefore changes to council policies/services may have a greater adverse impact on them.

On this basis you should consider potential impacts on individuals/families by:

- Place: on specific vulnerable areas or communities (SIMD, regeneration, rural) e.g. housing, transport.
- Pockets: household resources, (Income, benefits, outgoings) ability to access a service
- Prospects: peoples life chances e.g.access to, or ability to access: employment, training, services (such as council or health) or support.

Groups of people who may be impacted include, but not limited to:

<ul style="list-style-type: none"> <li>• Unemployed</li> <li>• Single parents and vulnerable families</li> <li>• People on benefits</li> <li>• Those involved in the criminal justice system</li> <li>• People in the most deprived communities</li> <li>• People who live in rural areas</li> </ul>	<ul style="list-style-type: none"> <li>• Pensioners</li> <li>• Looked after children</li> <li>• Carers including young carers</li> <li>• Veterans</li> <li>• Students</li> <li>• Single adult households</li> <li>• People who have experienced the asylum system</li> </ul>	<ul style="list-style-type: none"> <li>• Those leaving the care setting including children and young people and those with illness</li> <li>• Homeless people</li> <li>• People with low literacy/numeracy</li> <li>• People with lower educational qualifications</li> <li>• People I low paid work</li> <li>• People with one or more protected characteristic</li> </ul>
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Please complete by inserting “yes” in the applicable box/boxes below.

Socio-economic disadvantage	Positive	Negative	Neutral	Unknown
Pockets: Low income/income poverty – cannot afford to maintain regular payments such as bills, food, clothing			X	

Pockets: Low and/or no wealth – enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future			X	
Pockets: Material deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure and hobbies			X	
Place: Area deprivation – where you live, where you work			X	
Prospects: Socioeconomic background – social class i.e. parents education, employment and income , educational achievement.			X	

Stage 8: What are the positive and negative impacts?

Impacts.	Positive (describe the impact for each of the protected characteristics affected)	Negative (describe the impact for each of the protected characteristics affected)
Please detail the potential positive and/or negative impacts you have highlighted above. Detail the impacts and describe those affected.	The changes to the Standing Orders to promote the use of virtual meetings will have a positive impact on disability by increasing the ability of that group to attend meetings through online means and thereby promoting accessibility and opportunity.	


**Stage 9: Have any of the affected groups/areas been involved, engaged with or consulted?**

<p>If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?</p>	<p>n/a</p>
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**Stage 10: What mitigating steps will be taken to remove or reduce negative impacts?**

	Mitigating Steps	Timescale
<p>These should be included in any action plan at the back of this form.</p>	N/A	

**Stage 11: What monitoring arrangements will be put in place? How the EIA will be used to monitor the proposal**

<p>These should be included in any action plan (for example customer satisfaction questionnaires).</p>	<p>The Scheme of Governance is constantly monitored by officers to identify required updates and improvements</p>
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**Stage 12: What is the outcome of the Assessment?**

<p>Please complete the appropriate box/boxes</p>	1	<p>No negative impacts have been identified –please explain.</p>
		<p>There is a positive impact. (on Disability). The improvements to the regulations mean increased access to Council meetings through virtual means.</p>
	2	<p>Negative Impacts have been identified, these can be mitigated - please explain. * Please fill in Stage 13 if this option is chosen.</p>
		<p>none</p>

	3	The activity will have negative impacts which cannot be mitigated fully – please explain. * Please fill in Stage 13 if this option is chosen
	n/a	

\* Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.

n/a

Stage 14: Sign off and authorisation.

Sign off and authorisation.	1) Service and Team	Governance in Legal and People		
	2) Title of Policy/Activity	Annual Review of Scheme of Governance (if appropriate)		
	3) <b>Authors:</b> I/We have completed the equality impact assessment for this policy/activity.	Name: Ruth O'Hare Position: Acting Legal Service Manager Date: 29 December 2020 Signature:	Name: Position: Date: Signature:	
		Name: Position: Date: Signature:	Name: Position: Date: Signature:	
	4) Consultation with Service Manager	Name: Date: N/A		
	5) Authorisation by Director or Head of Service	Name: Karen Wiles Position: Head of Legal and People Date: 29 December 2020	Name: Position: Date:	
6) If the EIA relates to a matter that has to go before a Committee, Committee report author sends the Committee Report and this form, and any supporting assessment documents, to the Officers responsible for monitoring and the Committee Officer of the relevant Committee.	Date: 30 December 2020			

7) EIA author sends a copy of the finalised form to:  
equalities@aberdeenshire.gov.uk

Date:

