

## REPORT TO PROCEDURES COMMITTEE – 5 NOVEMBER 2021

### ANNUAL REVIEW OF THE SCHEME OF GOVERNANCE

#### **1 Reason for Report / Summary**

- 1.1 This report outlines proposed changes to the Scheme of Governance for recommendation to Full Council.

#### **2 Recommendations**

**The Committee is recommended to:**

- 2.1 Consider and comment on the amendments to the Scheme of Governance as detailed in Appendix 1 to this report;**
- 2.2 Recommend the proposed changes for consideration by Full Council; and**
- 2.3 Agree that a review of the Financial Regulations is taken forward as a separate project.**

#### **3 Purpose and Decision Making Route**

- 3.1 The Procedures Committee has the remit to consider any proposed changes to the Council's Scheme of Governance and to make recommendations regarding amendments to any other formal procedures of the Council.
- 3.2 On 21<sup>st</sup> April 2021 the Committee reviewed and agreed a revised Forward Plan which included an action to take forward the Annual Review of the Scheme of Governance.
- 3.3 Consultation was undertaken with services over the summer recess and a list of matters have been identified for consideration as part of this year's Annual Review. Some of the issues arising have not been included in this year's review, either due to the complexities of the areas identified which have not yet been fully explored, or because the reviews which have led to the proposals are yet to be fully concluded.
- 3.4 It is intended that a report will be submitted to Full Council on 13 January 2022 with the recommended changes as the first notification stage of the two stage approval process in Standing Orders. A further report to Full Council will follow in March requesting the amendments are approved.

## Discussion

### 4.1 The proposed changes to the Scheme of Governance are:-

- (i) Approval of the Treasury Management Strategy currently delegated to Business Services Committee has now been reserved to Full Council. Business Services Committee will retain the power to oversee compliance with the Strategy and receive reports for monitoring. This follows feedback from colleagues in Finance who have indicated that approval of the strategy is integral to the budget setting process and should be considered alongside the setting of the Capital and Revenue budgets, a decision reserved to Full Council.
- (ii) A power has been added to the Area Committees delegations in relation to the approval of the commencement of the statutory process for roads orders. Currently there is no mention of roads orders in the Scheme of Governance, however these are regularly referred to the Area Committee for a decision. This will therefore codify current practice.
- (iii) An amendment has been made to the financial powers delegated to Business Services Committee to clarify that the procurement of utilities includes street lighting.
- (iv) A delegation has been added to each Policy Committee in relation to fees and charges to align with the revised Corporate Charging Framework.
- (v) The administration of the taxi-card concessionary scheme is now managed by the Health and Social Care Partnership therefore the power delegated to Infrastructure Services Committee has been amended to reflect that. An additional delegation has also been added to that Committee to recognise its role in appointing the Council's Duty Holder under the Port Marine Safety Code.
- (vi) The Scheme of Governance presently provides for a specific Appointments Sub-Committee for the Aberdeenshire Health and Social Care Partnership. This was established whilst the Integration Joint Board was in its infancy and it is proposed that this be removed, as the IJB has established its own Appointments Sub-Committee. There is currently an ongoing review of the governance arrangements of the IJB. The Council's AHSCP Appointments Sub-Committee is now superfluous.
- (vii) Section D.1.3 of the List of Officer Powers has been amended to increase the amount of expenditure Area Managers can approve from the area budget from £250 to £500. Consultation with the Chair of the Area Committee and relevant local members would still be required. Currently Area Managers have the delegation to approve in consultation with the Chair of the Area Committee and relevant local Members, expenditure from the Area Committee budget up to £250. It is proposed that this figure should be adjusted to reflect inflation, and a figure of £500 would be more appropriate and realistic.

- (viii) In respect of money bequeathed to the Council, consideration requires to be given as to how bequests are dealt with. It is proposed that these be delegated to the Head of Finance, provided the terms of the bequest are followed. The monies could not be used for any other purpose than as stated in the bequest legally and so a delegation would be appropriate. This will also ensure funds can be released relatively quickly.
- (ix) The Licensing Sub-Committee recommend that the Procedures Committee include a delegation to the Head of Legal and People, the enforcement of the new Taxi and Private Hire advertising policy and to approve the immediate suspension of licences, required where the Police consider there to be a risk to public safety. In respect of the latter, often a decision is required quickly and the requirement to convene the Licensing Sub-Committee to take a decision defeats the purpose of the immediate suspension. The Licensing Sub-Committee would require to meet within six weeks of any immediate suspension to consider whether to suspend for a further period, otherwise the immediate suspension would expire.
- (x) The powers delegated to the Head of Roads, Landscape and Waste Services and the Head of Transportation have been updated to reflect current legislation. It is noted that the review of the Chief Officer posts within Infrastructure Services is still ongoing and further changes to the powers may be required in advance of reporting to Full Council to recognise the new structure.

4.2 It is also proposed that the Committee agree that any amendments required to the Financial Regulations are pursued via a standalone project. A more holistic approach is required to the issues that have been identified, looking at the Regulations as a whole, as opposed to tackling any changes in isolation, creating a “patchwork” effect. In addition to the issues highlighted as part of the Annual Review, a recent report from Internal Audit on procurement compliance has led to a referral from Audit Committee to Business Services Committee in relation to issues of non-compliance with the Financial Regulations which specifically requests that the Regulations are reviewed. Business Services Committee will consider this request at its meeting on 11 November, which may lead to a formal instruction to commence this work. Officers will take a view on the scope of the project following any decision by Business Services Committee and any changes will be reported back to the Procedures Committee in Spring 2022 with a view to reporting to Full Council for implementation prior to the start of the next Council term.

## **5 Council Priorities, Implications and Risk**

5.1 The report helps deliver all six Strategic Priorities by having a Scheme of Governance that remains fit for purpose and responsive to the environment the Council is operating in, thereby ensuring the underlying key principle of “right people, right place, right time”.

5.2 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed.

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial			X
Staffing			X
Equalities and Fairer Duty Scotland			X
Children and Young People's Rights and Wellbeing			X
Climate Change and Sustainability			X
Health and Wellbeing			X
Town Centre First			X

5.3 An integrated impact assessment ("IIA") is not required because the purpose of the report is to put forward initial proposals for changes to the Scheme of Governance. Any finalised proposals for changes to the Scheme of Governance arising from the actions in the Plan will be subject to an IIA to be reported back to the next meeting of this Committee.

5.4 The following Risks have been identified as relevant to this matter on a Corporate Level: ACORP002 Changes in government policy, legislation and Regulation; and ACORP004 Business and organisational change (including: ensuring governance structures support change; and, managing the pace of change). The Council needs to be assured that it has a governance structure that reflects and serves well the communities whose priorities it is here to deliver, which can be achieved through regular review of the delegations and guidance in the Scheme of Governance to ensure it is up to date and fit for purpose.

## **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 are satisfied that the report complies with the Scheme of Governance and relevant legislation.

- 6.2 The Committee is able to consider this item as the established remit of the Committee is to consider proposed changes to Aberdeenshire Council's Scheme of Governance and to make recommendations about required amendments.

**RITCHIE JOHNSON**

**DIRECTOR OF BUSINESS SERVICES**

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

Date 22 October 2021

Appendix 1 – Proposed Changes

## APPENDIX 1

### PART 2A – LIST OF COMMITTEE POWERS

#### A. FULL COUNCIL

#### 8. Finance

- 8.1 Approval of the annual estimates and setting the Council Budgets including Revenue, Capital, Carbon and Housing Revenue Account.
- 8.2 Approval of the Treasury Management Strategy.**
- 8.3 The incurring of any capital or revenue expenditure not provided for in the Capital Plan or Revenue Budget.
- 8.4 The setting of budgets for Area Committees and the extent to which these may be varied by the Area Committee.
- 8.5 The compulsory acquisition of any interest in land or buildings.

*The Treasury Management Strategy is integral to budget setting therefore it is appropriate that approval of the strategy is reserved to Full Council. Monitoring of the strategy will remain with Business Services Committee and changes have been proposed to that Committee's powers to reflect that.*

#### 10. Roads

- 10.3 To approve the commencement of the required statutory consultation process for a roads order.**

*This confirms current practice whereby roads orders are reported to Area Committees for a decision on commencing a statutory consultation.*

## C. BUSINESS SERVICES COMMITTEE

### 2. Finance

- 2.7 To ~~approve and monitor the treasury policy statement~~ **Treasury Management Strategy** dealing with the management of all money and capital market transactions in connection with cash and funding resources of the Council.

*This reflects the changes to Full Council's powers to reserve the approval of the strategy, whilst oversight and monitoring will remain with Business Services Committee.*

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 **(including street lighting)**, gas, oil, liquid petroleum gas, biomass, energy supply metering and water,

*The last review of the Scheme of Governance transferred the power to approve procurements for utilities contracts to Business Services Committee. This change clarifies that the power extends to street lighting, which is part of the wider contract for electricity that the Council holds.*

**2.11 To approve and review fees and charges within their remit in line with the provisions of the Corporate Charging Framework OBJ OBJ**

*Following the review of the Corporate Charging Framework, an additional power is proposed for all Policy Committees to reflect their role in approving and reviewing fees and charges. This power would apply to all Policy Committees.*

## F. INFRASTRUCTURE SERVICES COMMITTEE

### 6. Roads, Harbours and Transportation

- 6.2 The approval of concessionary travel arrangements **with the exception of the TaxiCard concessionary travel scheme.**

*This change reflects the transfer of the operation of the TaxiCard concessionary scheme from Transportation to the Aberdeenshire Health and Social Care Partnership*

- 6.3 **To act, or appoint a sub-committee to act, as the Council's Duty Holder under the Port Marine Safety Code.**

*This change clarifies the role of Infrastructure Services Committee to act as the Duty Holder under the Port Marine Safety Code. The role of Duty Holder is currently delegated to the Harbours Sub-Committee.*

## ~~N. ABERDEENSHIRE HEALTH AND SOCIAL CARE PARTNERSHIP APPOINTMENTS SUB-COMMITTEE~~

~~The Aberdeenshire Health and Social Care Partnership Appointments Sub-Committee is a sub-committee of the Policy Committee responsible for HR & OD and is established to make decisions about senior appointments to the Aberdeenshire Health and Social Care Partnership.~~

~~The Aberdeenshire Health and Social Care Partnership is the name given to the partnership comprising Aberdeenshire Council and NHS Grampian, the purpose of which is to deliver health and social care services on behalf of the Aberdeenshire Integration Joint Board.~~

~~The Sub-Committee membership comprises two from Aberdeenshire Council and two from Grampian Health Board, all four being members of the Aberdeenshire Integration Joint Board (one being the chair).~~

- ~~1. The following functions of the Council are delegated to this Sub-Committee. The Sub-Committee shall have power to decide on all matters relating to those functions which have not been reserved to the Full Council or specifically delegated to any other Committee of the Council:~~

- ~~a. The management and determination of Senior Appointments to the Aberdeenshire Health and Social Care Partnership.~~

~~Senior Appointments are those from (and including) the level or equivalent level of a Head of Service and above. Following determination the successful applicant may be employed either by Aberdeenshire Council or Grampian Health Board.~~

The IJB now has its own Appointments Committee therefore this Sub-Committee is no longer necessary.

## PART 2B – LIST OF OFFICER POWERS

### 1. Area Manager

Subject to the General Provisions and Limitations and in addition to the General Delegations, Area Managers are authorised to:

- 1.1 Approve, in **following** consultation with the Chair of the Area Committee and relevant local Members, expenditure from the Area Committee budget up to ~~£250~~ **£500**.

This change corrects the terminology in relation to consultation with the Area Chair and proposes an increase to reflect inflation and a more realistic figure.

### 4. Head of Finance

#### **4.41 To approve the use of funds received by bequest or gift to the Council.**

This new power for the Head of Finance will ensure that bequests can be dealt with efficiently. The rules regarding the distribution of bequests are tightly controlled by the will or letter of instruction governing the fund. There is little room for discretion. This is separate to trust funds which are controlled by the Council and which are dealt with at Committee.

### 6. Head of Legal and People

#### **6.51 To grant an immediate suspension of a civic licence under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982, where there is a serious threat to public order or public safety.**

This change is recommended by the Licensing Sub-Committee and will ensure that immediate suspensions can be dealt with quickly, and in the spirit of the legislation, to mitigate any ongoing risk to public safety.

## 5. Roads, Landscape Services and Waste Management

Subject to the General Provisions and Limitations and in addition to the General Delegations, the Head of Roads, Landscape and Waste Management Services is authorised to:

- 5.1 As required by the remit of the service, exercise the functions of the Council as local roads authority under the Roads (Scotland) Act 1984, the Road Traffic Regulation Act 1984, the New Roads and Street Works Act 1991 and the Transport (Scotland) Act 2005, **the Transport (Scotland) Act 2019** and any other relevant legislation. This includes the serving of any notices, withdrawal of any notices, issue of any licences, giving any consents and generally take any necessary action on behalf of the Council in terms of the Council's functions relating to roads.
- 5.2 **Exercise the functions of the Council as burial authority under the Burial and Cremation (Scotland) Act 2016, to include** ~~Manage and operate~~ **managing and operating** burial grounds and being responsible for the recording of information and ~~undertake~~ **undertaking** the allocation of lairs in accordance with Council policy.
- 5.9 **Exercise the functions as operator of the Council's quarries under the Quarries Regulations 1999 as introduced under the Health and Safety at Work Act 1994.**

## 6. Transportation

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

- 6.1 As required by the remit of the service, exercise the functions of the Council as local roads authority under the Roads (Scotland) Act 1984, the Road Traffic Regulation Act 1984, the New Roads and Street Works Act 1991, ~~and~~ the Transport (Scotland) Act 2005, **the Transport (Scotland) Act 2019** and any other relevant legislation. This includes the serving of any notices, withdrawal of any notices, issue of any licences, giving any consents and generally take any necessary action on behalf of the Council in terms of the Council's functions relating to transport and parking.