



REPORT TO: MORAY COUNCIL ON 12 FEBRUARY 2020

SUBJECT: CONSTITUTIONAL DOCUMENTS REVIEW

BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)

1. REASON FOR REPORT

1.1 To invite the Council to consider a strategic operating model as part of the Governance Review and to consider and approve changes Council's constitutional documents following the recent management restructure.

1.2 This report is submitted to Committee in terms of Section II (15) of the Council's Scheme of Administration relating to the formulation, review and amendment of the Constitutional Documents.

2. RECOMMENDATION

2.1 It is recommended that the Council:-

- (i) approve the amendments to the Scheme of Delegation detailed in Appendix 1;**
- (ii) consider the broad type of operating structure from Appendix 2 which they wish to see developed further as part of the Governance Review, a traditional committee structure or a cabinet/executive committee structure; and**
- (iii) note the next steps for progressing the Governance Review detailed in paragraph 5.5 below**

3. BACKGROUND

3.1 The Council's Constitutional documents comprise:

- Standing Orders
- Scheme of Administration (how committee functions are split up)
- Scheme of Delegation (powers delegated to officers)
- Financial Regulations
- Health and Social care Integration Scheme (powers delegated to the IJB)

- 3.2 The first four documents are normally reviewed annually and were last reviewed on 23 Jan 2019 (para 7 of the minute refers).
- 3.3 The Integration Scheme was last reviewed in March 2018 and a further review is underway.
- 3.4 Since these reviews there have been two significant developments:
 - 3.4.1 The management restructure which was agreed by the Council on 26 September 2019 (para 5 of the agenda refers). This has changed responsibilities within the Council's management arrangements and recommended further delegation of statutory social work responsibilities to the MIJB.
 - 3.4.2 The governance review agreed by the Council on 12 December 2018 (para 5 of the minute refers) as part of the Transform programme. The aim of the review, more fully set out below, is to improve the efficiency of the Councils decision making process.
- 3.5 These two developments will require further changes to the Council's Constitutional documents which are outlined below.

4. Management restructure

- 4.1 A revised Scheme of Delegation re-allocating duties from previous management posts to the new management posts is attached as **Appendix 1**. This would normally be presented as a "tracked changes" document however the changes have been so substantial this year that this was not practicable.
- 4.2 The post of Chief Officer to the Moray Integration Joint Board (MIJB) has been added to the Council's Scheme of Delegation as a CMT level post responsible for both Adult and Children's Services. This is considered to be a reasonable way to represent a complex legal situation:

Adult Services: Most of these are formally delegated to MIJB, a separate legal body who are accountable for these services, but using Council and NHS staff to deliver the services.

Children's Services: There is a proposal to formally delegate these services to MIJB in the same way Adult Services are delegated. It has been estimated that this will take around 18 months to achieve. Meantime it is considered reasonable for the MIJB Chief Officer to manage Children's services/staff, the Chief Officer being accountable to the Council's Chief Executive and the Council for these services.

Non delegated social care services: There are a small amount of social care services which (in terms of legislation) are not capable of being delegated formally to the IJB, for example guardianship for adults with incapacity. These services can be managed on the Council's behalf by the MIJB Chief Officer, as with Children's Services above, with the MIJB Chief Officer being accountable to the Council's Chief Executive and the Council for these services.

Post of Chief Social Work Officer: although part of the duties of the Head of Service (MIJB) who sits within the social care service group, this post is directly accountable to the Council terms of legislation.

- 4.3 In addition the following further changes have been made to take account of operational issues which have cropped up over the past year:

paragraph	change	reason
Page 26, para. 32	money advice/debt arrangement service added to benefits	Service transferred from trading standards last year.
Page 34 para. 48 (d)	Remove wording requiring approval of P&R-	already in Scheme of Administration.
Page 36, para. 56	Extend period where leases can be granted under delegated powers from 20 to 25 years.	To be able to progress routine leases quickly and cost effectively.
Former para. 60/61	Remove and renumber	Previously blank
61 (formerly 63)	Increase in waiver/indemnity which can be negotiated under delegated powers from £10k to £20k	Very rarely used. Figure has not been updated for a number of years.
63 (formerly 65)	Increase in threshold of delegation to approve negotiated sales from £20k to £30k.	To be able to progress relatively low value sales quickly and cost effectively.

- 4.4 Some further changes will be required to the Scheme of Administration and the Health and Social Care Integration Scheme to deal with the proposed transfer of children's social work services to MIJB.

5. **Governance Review**

- 5.1 The stated purpose is to review committee structures, Scheme of Delegation and reports to committee with a view to faster, more focused and efficient decision making and investigation of any cost savings. The focus is to:

- Reduce bureaucracy
- Streamline decision making processes
- Reduce material going to committee
- Look at alternative governance structures such as executive committees.

- 5.2 As an initial step it is recommended that the Council decide which type of operating structure they prefer for the future administration of Council business.

- 5.3 The Local Government (Scotland) Act 1973 allows councils in Scotland to devolve their decision making on statutory functions to committees and to

officers. A briefing to Councillors on 15 January 2015 outlined the different decision making models used by Local Authorities throughout Scotland. The table attached as **Appendix 2** summaries these different models with their relative advantages/disadvantages.

5.4 Operating models fall into two broad categories:

- A traditional committee model which the council currently operates.
- A cabinet/executive model which around one third of Scottish Councils operate.

There does not appear to be any correlation between the type of Council (in terms of population, city/rural, geographical area, political composition) and what operating model they use. The type of model adopted appears to be a matter for political preference. The recommendations in this report seek a decision from the Council on its preferred operating model.

5.5 When the Council has decided on its preferred operating model, further work will then take place to identify efficiencies which can be made within the chosen model, our processes benchmarked against other councils and options presented to the Council for approval. These options include:

- Reviewing the number of meetings the Council hold to see if this can be reduced by re-theming them, combining them or changing their frequency.
- Investigating whether there is scope to reduce the instance of similar reports having to go to more than one meeting
- Reviewing the number of reports going to meetings and the style of reporting.
- Looking at other ways to present information to Councillors and the public.
- Considering whether more business can be delegated to officers or partner bodies

6. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Effective governance arrangements are essential for the development and delivery of the Council's stated priorities and plans.

(b) Policy and Legal

The Council requires to have effective administration and delegation arrangements to be legally compliant.

(c) Financial implications

None

(d) Risk Implications

Having accurate and up to date governance documents reduces the chance of successful legal challenge to Council decisions and activity.

(e) Staffing Implications

The proposals can be accommodated within existing staffing resources.

(f) Property

None.

(g) Equalities/Socio Economic Impact

There are no direct impacts as the Council's constitutional documents regulate the Council's internal procedures only.

(h) Consultations

The review of the Scheme of Delegation has been undertaken in consultation with CMT and Heads of Service.

7. CONCLUSION

7.1 Changes need to be made to the Council's Scheme of Delegation to take account of the management restructure agreed by the Council on 26 September 2019.

7.2 A decision is required on the Council's preferred operating model to progress the Governance Review, part of the Council's Improvement and Modernisation programme.

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Background Papers: none

Ref: