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## Moray Council

**Wednesday, 10 November 2021**

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Moray Council** is to be held at **Remote Locations via Video Conference**, on **Wednesday, 10 November 2021** at **09:30**.

### **BUSINESS**

1. **Sederunt**
2. **Declaration of Group Decisions and Members Interests \***
3. **Minute of Meeting of 15 and 20 September 2021** 5 - 24
4. **Written Questions \*\***
5. **Notice of Motion - Queens Platinum Jubilee** 25 - 26
6. **Arrangements for the Local Government Elections 2022** 27 - 32  
Report by the Depute Chief Executive (Education, Communities and Organisational Development)
7. **Initial Review Proposals for UK Parliamentary Constituencies** 33 - 42  
Report by the Depute Chief Executive (Education, Communities and Organisational Development)
8. **Remit of the Audit and Scrutiny Committee** 43 - 60  
Report by the Depute Chief Executive (Education, Communities and Organisational Development)

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| <b>9. Proposed Childrens Services Sub Committee</b><br>Report by Depute Chief Executive (Education, Communities and Organisational Development)      | 61 - 64   |
| <b>10. Appointment to Outside Bodies</b><br>Report by the Depute Chief Executive (Education, Communities and Organisational Development)             | 65 - 68   |
| <b>11. Membership of MIJB Updated Integration Scheme</b><br>Report by the Chief Officer, Health and Social Care Moray                                | 69 - 152  |
| <b>12. Policy for Contributing to the Cost of Adult Social Care and Support</b><br>Report by the Chief Officer, Health and Social Care Moray         | 153 - 198 |
| <b>13. Question Time ***</b><br>Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration. |           |

**Moray Council Committee meetings are currently being held virtually due to Covid-19. If you wish to watch the webcast of the meeting please go to:**  
**[http://www.moray.gov.uk/moray\\_standard/page\\_43661.html](http://www.moray.gov.uk/moray_standard/page_43661.html)**  
**to watch the meeting live.**

\* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

\*\* **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

\*\*\* **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

# THE MORAY COUNCIL

## Moray Council

### SEDERUNT

Councillor Shona Morrison (Chair)  
Councillor Graham Leadbitter (Depute Chair)

Councillor George Alexander (Member)  
Councillor James Allan (Member)  
Councillor David Bremner (Member)  
Councillor Frank Brown (Member)  
Councillor Theresa Coull (Member)  
Councillor John Cowe (Member)  
Councillor Gordon Cowie (Member)  
Councillor Paula Coy (Member)  
Councillor Lorna Creswell (Member)  
Councillor John Divers (Member)  
Councillor Tim Eagle (Member)  
Councillor Ryan Edwards (Member)  
Councillor Claire Feaver (Member)  
Councillor Donald Gatt (Member)  
Councillor Marc Macrae (Member)  
Councillor Aaron McLean (Member)  
Councillor Maria McLean (Member)  
Councillor Ray McLean (Member)  
Councillor Louise Nicol (Member)  
Councillor Laura Powell (Member)  
Councillor Derek Ross (Member)  
Councillor Amy Taylor (Member)  
Councillor Sonya Warren (Member)  
Councillor Walter Wilson (Member)

Clerk Name:	Tracey Sutherland
Clerk Telephone:	07971 879268
Clerk Email:	committee.services@moray.gov.uk

**Minute of Meeting of the Moray Council**

**Wednesday, 15 and 20 September 2021**

**remote locations via video conference,**

**PRESENT**

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Theresa Coull, Councillor John Cowe, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Tim Eagle, Councillor Ryan Edwards, Councillor Claire Feaver, Councillor Donald Gatt, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Shona Morrison, Councillor Louise Nicol, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor, Councillor Sonya Warren, Councillor Walter Wilson

**APOLOGIES**

Councillor Gordon Cowie, Councillor Ray McLean

**IN ATTENDANCE**

Also in attendance at the meeting were the Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Chief Officer, Health and Social Care, Head of Education, Head of Financial Services, Head of Governance, Strategy and Performance, Head of Education Resources and Communities, Carmen Gillies, Development Officer, Ewen Fowlie (Hub North Scotland) and Tracey Sutherland, Committee Services Officer as Clerk to the meeting.

**1. Declaration of Group Decisions and Members Interests \***

In terms of Standing Order 20 and the Councillors' Code of Conduct, the following declarations were made:

Councillor Bremner declared an interest in Item 6 as a resident in the area.

Councillors Brown, Coull, Eagle, Morrison, Nicol, and Warren declared an interest in Items 12 and 25a as members and substitute members of the Integration Joint Board.

Although they have yet to be appointed formally as members of the IJB, Councillor Divers and Edwards also declared an interest in Items 12 and 25a.

Councillor Gatt declared an interest in Item 22 as having a close family member working for Orbix and sought advice on whether he should remain in the meeting and take no part or whether he should leave the meeting for the duration of the discussion.

In response, the Head of Governance, Strategy and Performance stated that Councillor Gatt could remain in the meeting and take no part in the discussion due to the meeting being held remotely.

Councillor Eagle confirmed that the Conservative Group had discussed the agenda but no whip had been given on voting on any items on the agenda.

There were no further declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

## **2. Resolution**

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 27 and 28 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

<b>Para Number of the Minute</b>	<b>Para Number of Schedule 7A</b>
12	Para 6 Information relating to the financial or business affairs of any particular person(s)
35	Para 6, 8 and 9 Information relating to the financial or business affairs of any particular person(s) and Information on proposed terms and/or expenditure to be incurred by the Authority

## **3. Minute of Meeting of 30 June 2021**

The minute of the meeting of 30 June 2021 was submitted and approved.

## **4. Written Questions \*\***

The Council noted that no written questions had been submitted.

## **5. Notice of Motion - River Spey**

A Notice of Motion was submitted by Councillor Macrae, seconded by Councillor Eagle in the following terms:

### **River Spey Flooding**

Over the last few years the residents of Garmouth have faced increased flooding events effecting several homes and businesses in and around the village. Despite

some discussions during committee and from the local MSP nothing has yet been put to council or the Scottish Government which seeks to alleviate the problem.

The community are deeply concerned about the increased flooding events and the local community council have undertaken significant work to look at soft engineering options to try and provide a solution.

Local community members forming part of Innes Community Council have provided the following documents, which are attached for information:

- i) a report from Innes Community Council highlighting their views on the flooding events and the work they have done;
- ii) a report from Dr Hamish Moir an expert in water management detailing the history of the area and potential solutions;
- iii) a cost breakdown of the Community Council proposed solution; and
- iv) pictures of the planned works.

We believe in community; we believe that where they come together to raise issues of importance to their towns and villages, we as elected members should be responsive. Today we wish to recognise the work of community members in reaching this point.

We ask the Council to -

- i) Recognise the Community concern around increased flooding events impacting upon Garmouth;
- ii) agree to Officers working with local groups including Innes Community Council and land owners to bring a report back to the 30 November meeting of the Council with potential solutions and indicative costs, including the community proposals above, in order that Councillors can agree the proposed way forward; and
- iii) ask Officers to engage with the Crown Estate and other relevant partners regarding the issue.

In response, Councillor Leadbitter, who was broadly supportive of the request, suggested the addition of the word 'constituted' in point 2 of the motion so it reads local constituted groups.

Councillor Macrae acknowledged that he was happy to accept the inclusion of the word constituted.

As there was no one otherwise minded the Council agreed to:

- i) recognise the community concern around increased flooding events impacting upon Garmouth.
- ii) agree to officers working with local constituted groups including Innes Community Council and land owners to bring a report back to the 30 November meeting of the Council with potential solutions and indicative

costs, including the community proposals above, in order that Councillors can agree the proposed way forward.

- iii) ask Officers to engage with the Crown Estate and other relevant partners regarding this issue.

## **6. Notice of Motion - Gulls**

A Notice of Motion was submitted by Councillor Eagle, seconded by Councillor Gatt in the following terms:

### **Gulls**

Gulls, also known locally as Seagulls are a prominent feature of coastal life. Due to various reasons Seagulls are often found in close contact with humans. In the past this has caused difficulties particularly as adult birds protect their young on residential streets. This year appears to have shown a significant rise in complaints throughout Moray.

There is no current duty on local authorities in Scotland to provide advice, support or action to local residents in dealing with Gull problems.

Given the level of public demand we ask council to direct officers to look into a package of options Moray Council could put in place to support communities, bringing back a paper detailing those options and costs.

We recognise that the administration have already instructed officers to undertake some work and we welcome cross-party working on what is an important issue to local residents. This motion seeks to formalise the work that has been asked for and provide officers with the assurance of cross party agreement -

We therefore ask Council to agree –

- i) To instruct officers to bring a paper to the next Economic Development and Infrastructure Committee on 19 October 2021 with the potential measures Moray Council could put in place to support communities with Gull problems along with costings.
- ii) That the leader and chief executive will write to the Scottish Government and local MSP's highlighting the concerns of local people and calling on them to consider a new funding package to support coastal communities who face Gull problems.

In his introduction, Councillor Eagle said that following discussions with other Councillors it had become clear that the Gull issue was not one only affecting coastal life but indeed most areas of Moray and agreed to remove the word coastal and replace with Moray wide.

In response, Councillor Leadbitter welcomed the motion. He further added that work has been ongoing in central Elgin to try and resolve the problem and it is hope that the expansion next year at the start of the nesting season will have a bigger impact. Councillor Leadbitter suggested amending the wording to include writing to the local MSP and MP as the protection of the seagulls is a reserved issue for Westminster.



Councillor Eagle confirmed he was happy with this change and as there was no one otherwise minded, the Council agreed to:

- i) To instruct Officers to bring a paper to the next Economic Development and Infrastructure Committee on 19 October 2021 with the potential measures Moray Council could put in place to support communities with Gull problems along with costings.
- ii) That the Leader and Chief Executive will write to the Scottish Government, the local MP and MSP's highlighting the concerns of local people and calling on them to consider a new funding package to support coastal communities who face Gull problems

## **7. Notice of Motion - Glasgow Food and Climate Declaration**

A Notice of Motion was submitted by Councillor Nicol, seconded by Councillor Coull and not Councillor Coy as indicated in the papers, in the following terms:

### **Glasgow Food and Climate Declaration**

Council notes the request made to the Council Leader by the Leader of Glasgow City Council to sign the Glasgow Food and Climate Declaration ahead of COP26 and join the commitment and call to action for a food systems approach to tackling the climate and nature emergency.

Council further notes that signatories include a range of sub-national governments and organisations from countries around the world and include a number of Scotland's Local Authorities.

Council notes that there are no significant financial implications to signing the declaration as actions already agreed as part of our Climate Change Strategy aim to deliver these benefits.

Council notes the information that can be found on the Glasgow declaration webpage at [www.glasgowdeclaration.org](http://www.glasgowdeclaration.org) and instructs the Council Leader to sign the Declaration, the text of which is detailed in Appendix 1.

Councillor Eagle confirmed that his group fully supported the Climate Change Strategy for Moray, however was concerned about the suggestion that there is no significant financial implications in signing the declaration and would it be possible to identify the likely costs.

In response Councillor Leadbitter said that there were not costs that had not already been identified by the Council within its own strategy. He further gave an assurance that he had asked Officer prior to the submission of the Notice of Motion who confirmed that any costs are encompassed in the strategy.

Councillor Brown sought clarification on whether the Notice of Motion was competent given there had been no costs included.

In response the Head of Governance, Strategy and Performance confirmed that in respect of Standing Order 47c it would be up to Members to determine whether they had sufficient information before them to come to a reasoned and balanced decision.

Councillor Feaver stated that she had no confidence in agreeing with the motion due to the financial costs not being identified and proposed amending the Notice of Motion to read that there are no financial implications.

The Head of Governance, Strategy and Performance confirmed that he felt Councillor Feaver's amendment was not achievable.

The Depute Chief Executive (Economy, Environment and Finance) suggested that the wording could be amended to read there are no current direct financial implications.

Councillor Nicol confirmed that she would be happy to amend the wording to that suggested by the Depute Chief Executive (Economy, Environment and Finance).

It was agreed to have a short adjournment to allow parties to discuss what had been put forward.

On the resumption of the meeting, Councillor Feaver withdrew her amendment.

Councillor Brown, seconded by Councillor Feaver proposed that the Council rejects the request to sign the Glasgow Declaration on the grounds that there is no financial information on potential costs available to facilitate a reasoned judgement.

On the division there voted:

For the motion (14)	Councillors Nicol, Coull, Alexander, Bremner, Creswell, Cowe, Coy, Divers, Edwards, Leadbitter, A McLean, Morrison, Taylor and Warren.
For the Amendment (7)	Councillors Brown, Feaver, Allan, Gatt, M Mclean, Ross and Wilson.
Abstentions (3)	Councillors Eagle, Macrae and Powell.

Therefore the motion became the finding of the meeting and the Council agreed to sign the Declaration.

## **8. Notice of Motion - Pipes and Drums Tuition**

A Notice of Motion was submitted by Councillor Alexander, seconded by Councillor Creswell in the following terms:

### **Moray Tuition – Pipes and Drums**

In light of the proposed extra funding from the Scottish Government for music tuition in our schools, this motion calls for a report to the Education, Children's and Leisure Services Committee detailing how the Council could include in its curriculum an inclusive and fully funded option for pupils to receive tuition in piping and drumming. Pipe bands are an integral part of our Scottish tradition and play a huge role in the attraction of tourists to our area. Many councils already include this choice in their curriculum and the Moray Council should pick up the baton and continue the sterling work that has already been started by the Moray Youth Pipes and Drums Tuition Scheme in conjunction the Scottish Schools Pipes and Drums Trust (SSPDT)

As there was no one otherwise minded the Council agreed for a report to be presented to the Education, Children's and Leisure Services Committee.

## **9. Emergency Notice of Motion - Universal Credit Reduction**

A Notice of Motion was submitted by Councillor Coy, seconded by Councillor Leadbitter in the following terms:

### **UNIVERSAL CREDIT REDUCTION**

Due to the potential scale of the impact of the Universal Credit cut to Moray becoming clearer and the publication of the Citizens Advice Scotland report in the last week, the Council urgently notes with concern the reduction of £20 per week for the estimated 3150 Universal Credit claimants in Moray will mean a loss of income of over £1000 per year for Moray's most financially vulnerable families. As the Joseph Rowntree Foundation has stated: 'This will hit families on the lowest incomes and disproportionately affect families with children, particularly single parent families and families where someone is disabled.'

Council further notes that as the cost of food, clothing and energy continues to rise this council must do all it can to protect Moray's most financially vulnerable families.

Council acknowledges the pressure this cut will have on local 3rd sector organisations and council services like the Income Maximisation team and Welfare Benefits team.

Council instructs the Leader to write to the UK Government, the MP for Moray and the Secretary of State for Scotland with urgency to add our voices to the calls from the devolved governments in Scotland, Wales and Northern Ireland to rethink the plans to end the Universal Credit uplift on the 6th of October.

Councillor Eagle, seconded by Councillor Brown proposed not accepting the Notice of Motion as the uplift had always been a temporary measure when it was introduced.

Councillor Eagle further added that he would do all that he could to find out more information about the Shared Prosperity Fund and will circulate information to all Members for dissemination.

On the division there voted:

For the Motion (14)	Councillors Coy, Leadbitter, Alexander, Bremner, Coull, Cowe, Creswell, Divers, Edwards, A McLean, Morrison, Nicol, Taylor and Warren
For the Amendment (10)	Councillors Eagle, Brown, Allan, Feaver, Gatt, Macrae, M McLean, Powell, Ross and Wilson
Abstentions (0)	

Accordingly the motion became the finding of the meeting and the Council agreed to instruct the Leader to write to the UK Government, the MP for Moray and the

Secretary of State for Scotland with urgency to add voices to the calls from the devolved governments in Scotland, Wales and Northern Ireland to rethink the plans to end the Universal Credit uplift on the 6 October 2021.

In terms of Standing Order 75, the Chair sought the agreement of the Council to continue the meeting past 12.45pm to allow the next item on the agenda to be discussed. This was unanimously agreed.

## **10        Resettlement and Relocation Schemes**

A report by the Chief Officer, Health and Social Care sought approval to participate in the following Resettlement and Relocation Schemes and to subsequently advise the Convention of Scottish Local Authorities (CoSLA) of Moray Council's commitment towards:

- Afghanistan Relocation and Assistance Policy (ARAP) Scheme (Emergency Response) to support Afghan Local Employed Staff (LES); and
- National Transfer Scheme to support Unaccompanied Asylum Seeking Children.

Councillor Eagle expressed concern that the dedicated resettlement team were only being employed on a temporary basis for a period of 12 months and was it possible for officers to investigate whether a cross area response with neighbouring authorities was appropriate.

In response, the Project Officer, Health and Social Care Moray updated the Council on guidance received since the report had been written which confirmed that funding is now available for 3 years and it is proposed to employ the resettlement team for a period of 2 years with a report back to the Council at the end of the 2 years.

Councillor Morrison further added that an approach from Aberdeenshire Council had already been received and assured Councillor Eagle that cross authority working was already taking place.

Following further consideration Councillor Eagle seconded by Councillor Brown, moved that the Council to consider amending recommendation 2.1 (iv) to read - agrees to allocate funding for a dedicated resettlement team for 24 months and to ask Officers to contact other authorities to determine if there is a possibility of a cross area response and for a paper to be brought back in 2 years reporting on the scheme.

As there was no one otherwise minded the Council agreed to:

- i) participate in the Afghan Relocation Scheme;
- ii) participate in the National Transfer Scheme for Unaccompanied Asylum Seeking Children;
- iii) note the Council's position in respect of the current and future Resettlement Schemes;
- iv) to allocate funding for a dedicated resettlement team for 24 months and to ask Officers to contact other authorities to determine if there is a possibility

of a cross area response and for a paper to be brought back in 2 years reporting on the scheme.

- v) delegate authority to the Head of Housing and Property to negotiate and agree terms for the lease of Ministry of Defence (MOD) housing stock; and
- vi) note the precedent for any allocations of social housing under related schemes to be made by the Housing Needs Review Group.

Councillor Wilson left the meeting during the consideration of this item.

## **11. Order of Business**

In respect of Standing Order 28, the Chair sought agreement from the Council to consider Item 28 in confidence following the break for lunch then return to the open section of the agenda and consider Items 15 and 24 before resuming with the agenda order.

This was unanimously agreed.

## **12. North Infrastructure Commission [Para 6, 8 and 9]**

A report by the Depute Chief Executive (Economy, Environment and Finance) invited the Council to consider the work of the North Infrastructure Commission (NIC), its Key Findings Report of July 2021 and the accompanying North Infrastructure Investment Plan (NIIP).

Following consideration the Council agreed to:

- i) note the work undertaken by the North Infrastructure Commission (NIC) since its launch in 2020;
- ii) endorses the findings of the NIC in its draft Key Findings Report (Executive Summary attached as Appendix 1, noting the intention to take this forward for wider Government consultation as detailed in the report; and
- iii) inclusion of the projects for Moray in the 15 year North Infrastructure Investment Plan (NIIP) as set out in Appendix 2.

## **13. Member Conduct**

Councillor Ross raised concerns about the behaviours and conduct of some Members during the morning session of the meeting.

In response, the Head of Governance, Strategy and Performance confirmed that he was aware that several members had raised issues with the conduct of other members during the morning session. He further added that he would undertake to review the webcast to see where conduct had fallen short in accordance with the Code of Conduct and advised that to progress with the meeting it would be advisable to draw a line and try to move on with the meeting.

#### **14. Improvement and Modernisation Raising Attainment Wellbeing**

A report by the Depute Chief Executive (Education, Communities and Organisational Development) sought direction on the next stage of development of the Education workstream in relation to Raising Attainment: Wellbeing agreed by the Council on 12 May 2021 as part of the next stage of the Council's Improvement and Modernisation programme: Transformation to Achieve.

Councillor Warren proposed to allocate £1,996,000 worth of funding to ensure the Council is doing the best it can for its young people, this was seconded by Councillor A McLean.

Councillor Brown, seconded by Councillor Feaver moved to allocate £1,038,000 worth of funding.

On the division there voted:

For the Motion (12)	Councillors Warren, A McLean, Alexander, Coull, Cowe, Coy, Creswell, Divers, Leadbitter, Nicol, Morrison and Taylor
For the Amendment (10)	Councillors Brown, Feaver, Allan, Eagle, Gatt, Macrae, M McLean, Powell, Ross and Wilson
Abstentions (0)	

Accordingly the motion became the finding of the meeting and the Council agreed to allocate £1,996,00 of funding to proceed to the next stage of development of the Raising Attainment: Wellbeing workstream within the Council's Improvement and Modernisation Programme.

Councillor Edwards left the meeting during the consideration of this item.

Councillor Allan left the meeting following the consideration of this item.

#### **15. Education National Improvement Framework Report and Plan**

A report by the Depute Chief Executive (Education, Communities and Organisational Development) advised the Council on the National Improvement Framework plan return which is submitted to the Scottish Government as requested, in September this year as opposed to the normal August return date.

Following consideration the Council agreed to:

- i) note the contents of the Moray Self-evaluation document and National Improvement Framework Plan; and
- ii) agrees the annual National Improvement Framework (NIF) return to be submitted to Scottish Government by 30 September 2021.

## **16. Independent Review of Adult Social Care and National Care Service Consultation**

A report by the Chief Executive (Moray Council) and the Chief Officer (Health and Social Care Moray) informed the Council of the current situation with respect to the Independent Review of Adult Social Care (IRASC) and the consultation on establishing a National Care Service (NCS) and for the Council to consider how it will respond to the consultation.

In terms of Standing Order 75 the Chair sought agreement from the Council to continue the meeting past 5.00pm. This was unanimously agreed.

There was a general consensus that all Councillors should be involved in the consultation response as it was important that as many views are presented as possible.

Councillor Brown proposed arranging a Members Briefing and facilitated session to obtain the views of all Councillors followed by a smaller working group to pull together all the views and to draft the Council's response.

Councillor Morrison however, expressed concern that this could double the work and felt the approach being taken by the Integration Joint Board in holding 1 facilitated session would be sufficient.

The Chief Executive and Chief Officer confirmed that this approach could be accommodated. The Working group could be formed from the facilitated group, if it was required. He further added that if there was a clear response from the facilitated session then there would be no requirement for the working group.

In terms of Standing Order 75 the Chair sought agreement from the Council to continue the meeting after 5.00pm. This was unanimously agreed.

Following further consideration the Chair moved the recommendations with the addition of a caveat that if required a smaller working group would be convened following the facilitated session.

As there was no one otherwise minded the Council agreed to note the content of the report on the IRASC and NCS consultation and for arrangements to be made for a facilitated session for all Members to discuss the consultation and formulate a response, with the option to follow up with a working group if necessary.

## **17. Resumption of the Meeting - 20 September 2021**

### **PRESENT**

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Theresa Coull, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Tim Eagle, Councillor Ryan Edwards, Councillor Claire Feaver, Councillor Donald Gatt, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Ray McLean, Councillor Shona Morrison, Councillor Louise Nicol, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor, Councillor Sonya Warren, Councillor Walter Wilson

## **APOLOGIES**

Councillor Frank Brown and Councillor Clare Feaver

## **ALSO IN ATTENDANCE**

Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Chief Financial Officer, Head of Governance, Strategy and Performance, Payments Manager, Asset Management Co-ordinator and Mrs Lissa Rowan, Committee Services Officer as Clerk to the Meeting.

### **18. Declaration of Group Decisions and Members Interests**

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Morrison declared an interest in Item 25a) Appointments to Outside Bodies being a Member of the Moray Integration Joint Board.

There were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any other declarations of Member's interests in respect of any item on the agenda.

### **19. Resolution**

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 27 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

<b>Para Number of the Minute</b>	<b>Para Number of Schedule 7A</b>
35	Para 6 Information relating to the financial or business affairs of any particular person(s)

### **20. Order of Business**

In terms of Standing Order 28, the Chair sought the agreement of the Council to vary the order of business and take Item 21 "2020 - 2021 Procurement Annual Report" as the second substantive item of business, to allow the Payments Manager to leave the meeting at the earliest convenience. This was agreed.

### **21. Monitoring Officer Report from 1 August 2020 to 31 July 2021**

Councillor M McLean joined the meeting during consideration of this item.



A report by the Monitoring Officer provided the Council with a report on the range of activities undertaken by the Monitoring Officer.

During his introduction, the Monitoring Officer advised that this report had originally been an information report however, due to the amount of time spent by the Monitoring Officer with regard to Notices of Motion and incidences of disrespectful behaviour, he was of the view that the report should be added to the agenda for consideration by the Council. He advised that disrespectful behaviour damaged the Council's reputation and hindered the Council's progress in achieving its strategic priorities.

The Council Leader further stated that Councillors should conduct themselves in a way that gives the public confidence in the Council and that since the meeting last week, some Councillors had been contacted by members of the public commenting that the conduct by some Members at the last meeting of the Council was unreasonable and that each Member should consider how their words and actions may be interpreted by others and urged Members to debate matters using a more calm and reasoned approach.

Thereafter, the Council agreed to note the Monitoring Officer Report from 1 August 2020 to 31 July 2021.

## **22. 2020 - 2021 Procurement Annual Report**

A report by the Depute Chief Executive (Economy, Environment and Finance) provided the Council with an update report on Procurement activity in Moray and in particular report on procurement performance for 2020/2021.

The Council joined the Chair in commending the Service for their efforts given the challenging circumstance surrounding the Covid 19 pandemic and thereafter agreed to note the overall procurement performance for 2020/21 as set out in the Annual Report in Appendix 1 and in Section 4 of the report.

## **23. Overview of Moray Council Strategic Priorities**

A report by the Chief Executive provided the Council with an overview of progress of the Council's strategic priorities.

Following consideration, the Council:

- i) agreed to note progress of the corporate and strategic priorities as set out in the Council's key strategic plans and programme;
- ii) agreed to note the required investment in time and in the replenishment and enhancement of strategic and associated capacity and capability to deliver the priorities; and
- iii) recognised that, to maintain pace, depth and continuity of improvement and transformation, given the interplay and dependencies of the strategic plans and programme and the significance of workload balance, an agility of resource allocation and a proportionate risk based approach is required.

## **24. Corporate Plan Progress Update 2020-21**

A report by the Depute Chief Executive (Education, Communities and Organisational Development) invited the Committee to review progress made during 2020-21 on the 2019-24 Corporate Plan.

Following consideration, the Council agreed to note the progress made during 2020-21 on the Corporate Plan 2019-24 as set out in Appendix 1 of the report.

## **25. Best Value Assurance Report Strategic Action Plan - Progress Report**

Councillor Eagle left the meeting at this juncture.

Under reference to paragraph 18 of the Minute of the meeting of Moray Council dated 28 October 2021, a report by the Chief Executive informed the Council of the latest progress on the Best Value Assurance Report Strategic Action Plan.

Following consideration, the Council agreed to note:

- i) progress made on the Best Value Assurance Report (BVAR) Strategic Action Plan as set out in the Appendix to the report; and
- ii) that future progress will be reported on a quarterly basis.

## **26. Strategic Framework for Recovery and Renewal in Moray Update Report**

Councillor R McLean left the meeting during consideration of this item.

Under reference to paragraph 8 of the Minute of the Moray Council dated 18 February 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) provided an update on progress with recovery, noting that the last overarching update report was provided to the Council on 18 February 2021.

During discussion, the Council Leader made reference to recent comments that had been made by the Vice Chair of the University of the Highlands and Islands (UHI) regarding the variety of courses that should be provided and sought the agreement of the Council to write to the UHI to seek clarification with regard to these comments in relation to the curriculum breadth and how this links to economic and education recovery. This was unanimously agreed.

Thereafter, the Council agreed:

- i) to note the update on key developments at a national level;
- ii) to note the broad update on local activity and developments across the 4 harms;
- iii) to note the update on progress with the Recovery and Renewal Action Plan (RRAP) as set out in Appendix 1 of the report and lessons learned;

- iv) to note the progress in terms of the Recovery and Renewal Programme as set out in Appendix 2 of the report and agreed the reprofiling now proposed; and
- v) that the Council Leader will write to the University of the Highlands and Islands to seek clarification with regard to recent comments in relation to the curriculum breadth and how this links to economic and education recovery.

## **27. Short Medium Term Financial Planning**

Under reference to paragraph 17 of the Minute of the meeting of Moray Council dated 30 June 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Council of the updated financial projections for 2021/22, 2022/23 and 2023/24 and asked that the Council consider the approach to development of the revenue budget for 2021/22 and 2022/23.

The Council joined the Chair in commending the Service for their clarity in reporting the complex financial information surrounding Covid-19 money and grants and thereafter agreed:

- i) to note the revised budget estimates for 2021/22, 2022/23 and 2023/24;
- ii) to note the continued underlying requirement to deliver savings;
- iii) that the focus during 2021/22 and 2022/23 should be on service redesign and realignment, delivering efficiencies in the short term (within 12-36 months) rather than on immediate in year savings and should include consideration of budget pressures from external influence;
- iv) to approve the use of covid ear-marked reserves as set out in paragraph 3.3 of the report;
- v) to approve further ear-marking of free general reserve as set out in paragraph 3.12 of the report; and
- vi) to approve additional funding of £75,000 in 2021/22 for Social Care services in response to a recently identified urgent requirement for support for a vulnerable person.

## **28. Treasury Management Performance Indicators**

A report by the Depute Chief Executive (Economy, Environment and Finance) provided the Council with the annual outturn report on Treasury Management and details of the Council's Prudential Indicators for Treasury Management and Capital Investment for the year ended 31 March 2021.

Following consideration, the Council agreed to note the Treasury Management Performance and the Council's Treasury Management and Capital Investment Prudential Indicators for 2020/21 as set out in Appendix 2 of the report.

## **29. Financial Reserves Policy**

Under reference to paragraph 4 of the Minute of the meeting of Moray Council dated 31 October 2018, a report by the Depute Chief Executive (Economy, Environment and Finance) sought approval of the Council's updated financial reserves policy.

During her introduction, the Chief Financial Officer advised that when she had written the report the earlier report which had been agreed by the Council on Short to Medium Term Financial Planning which included approval of reserves in relation to Moray Growth Deal had yet to be considered and asked that the Council consider approval of the revised Financial Reserves Policy subject to the inclusion of the ear marking of reserves in relation to the Moray Growth Deal. This was agreed.

Thereafter, the Council agreed:

- i) to approve the Financial Reserves Policy as set out in Appendix 1 of the report subject to the inclusion of the ear marking of reserves in relation to the Moray Growth Deal; and
- ii) that the next review will be no later than October 2024.

## **30 North Highland and Moray Local Space Leadership Group**

A report by the Depute Chief Executive (Economy, Environment and Finance) invited the Council to nominate a Member to participate in the North Highland and Moray Local Space Leadership Group.

The Chair nominated the Council Leader, recognising his wealth of experience gained from being Chair of the Economic Development and Infrastructure Services Committee and also his particular interest in aerospace. This was seconded by Councillor Coy.

There being no-one otherwise minded, the Council agreed the terms of reference for the group and nominated Councillor Leadbitter to be considered for representation on the Local Space Leadership Group.

## **31. Forres Common Good - Transition Town Forres**

Under reference to paragraph 21 of the Minute of the meeting of Moray Council dated 30 June 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) invited the Council to consider an application from Transition Town Forres to the Forres Common Good Fund for financial assistance.

Councillor Aaron McLean highlighted the good work undertaken by Transition Town Forres and how this supports the Council's climate change strategy and encourages sustainable communities and moved that the Council approve the application from Transition Town Forres for a grant of £8,000 from the Forres Common Good Fund. This was seconded by Councillor Nicol.

There being no-one otherwise minded, the Council agreed to approve an application from Transition Town Forres for a grant of £8,000 from the Forres Common Good Fund.

### **32. Committee Governance**

Under reference to paragraph 24 of the Minute of the meeting of Moray Council dated 30 June 2021, a report by the Depute Chief Executive (Education, Communities and Organisational Development) invited the Council to approve the changes to the Scheme of Administration to reflect the agreed revised committee structure along with those changes previously agreed that would normally be incorporated as part of the annual review and agree the revised Committee Calendar.

During his introduction, the Head of Governance, Strategy and Performance highlighted 2 errors in the revised Scheme of Administration, that being reference (E) (21) which had been duplicated in error and the removal of the word "culture" from reference (F) (34) and advised that these errors would be corrected should the Scheme of Administration be approved. This was noted.

With regard to the recommendation to appoint a Depute Chair to the Audit and Scrutiny Committee, Councillor Ross nominated Councillor Brown, stating that, although Councillor Brown was not present at the meeting, he had discussed this with Councillor Brown prior to the meeting. This was seconded by Councillor Wilson.

There being no-one otherwise minded, the Council agreed:

- i) the changes to the Scheme of Administration to reflect the revised committee structure as set out in Appendix 1 of the report, and also to incorporate all other changes normally incorporated as part of the annual review subject to the removal of:
  - (E) (21) which had been duplicated in error; and
  - the word "culture" from (F) (34);
- ii) that a report clarifying the role of Audit and Scrutiny (with reference a scrutiny guidance document) will be presented to a future meeting;
- iii) that existing committee chairs continue in their positions with the Chair of Policy and Resources assuming the chair of the Corporate Committee;
- iv) to appoint Councillor Brown as Depute Chair to the Audit and Scrutiny Committee;
- v) the revised committee calendar covering an 8 week cycle of meetings commencing 28 September 2021 as set out in Appendix 3 of the report; and
- vi) that meetings continue to be held by video conference and webcast and the position is reviewed again at the Council meeting in January 2022.

### **33. Appointments to Outside Bodies**

Councillor Gatt joined the meeting during consideration of this item.

Under reference to paragraph 7 of the Minute of the meeting of Moray Council dated 17 May 2017, a report by the Depute Chief Executive (Education,

Communities and Organisational Development) invited the Council to confirm the re-appointment of Councillors Brown and Morrison to the Moray Integration Joint Board (MIJB) until the end of the current term of office.

Councillor Edwards moved the recommendation that the Council approve the re-appointment of Councillors Brown and Morrison to the Moray Integration Joint Board (MIJB) until the end of the current term of office. This was seconded by Councillor Coull.

There being no-one otherwise minded, the Council agreed to approve the re-appointment of Councillors Brown and Morrison to the Moray Integration Joint Board (MIJB) until the end of the current term of office.

### **34. Question Time \*\*\***

At the meeting of Moray Council on 15 September 2021, Councillor Eagle had indicated that he had a question under reference to paragraph 6 of the Minute date 30 June 2021 in relation to the Findochty Harbour which he would raise at item 26 Question Time.

As Councillor Eagle was not present at this point in the meeting, the Depute Chief Executive (Economy, Environment and Finance) provided the following update for members using the meeting chat function:

Findochty pontoons – construction in progress in line with the timeline that has been communicated out. The contractor is on-site doing preparation and assembly – 4 beams have been fitted at low tides and 6 pontoon sections are constructed on the quayside. Programme indicates completion for 3 November, and the contractor is currently on track for this. Arrangements for harbour users to bring their boats back in to the water will be made in the coming weeks.

Councillor Alexander sought an update in relation to the installation of traffic lights at St Catherines Road and Orchard Road in Forres as he had heard that the works scheduled for October 2021 may now be postponed.

In response, the Depute Chief Executive (Economy, Environment and Finance) advised that a full update on the proposed installation of traffic lights at St Catherines Road and Orchard Road in Forres would be provided to all member in due course.

Councillor Ross queried whether there were any plans to reduce the HQ campus as members of staff would not be returning to council offices on a full time basis and that the buildings are currently under-utilised.

In response, the Depute Chief Executive (Economy, Environment and Finance) advised that a report on the office review was recently considered by Council and that there were no current plans to reduce the HQ campus. She advised that recruitment to the project team for the Improvement and Modernisation Programme was underway which would take office rationalisation forward and that, although moves were being made toward 30% occupancy by November 2021, the benefits of face to face working as part of a team, training for new members of staff and the use of IT only available at HQ buildings had to be considered as these elements are hindered through remote working. The Depute Chief Executive (Economy, Environment and Finance) further advised that potential rationalisation of satellite buildings where lease agreements are coming to an end are being

considered in relation to whether these members of staff can be accommodated in the HQ Campus.

Councillor Creswell made reference to Challenge Poverty week due to commence at the start of October and sought an update in relation to the Council's status with regard to providing the real living wage.

In response, the Chief Executive advised that Council Officers had participated in a video commissioned by one of the Poverty Alliance Groups displaying the views of the public and private sectors which is to be shown during National Poverty Week. He further advised that the Council is working with the Local Poverty Alliance with regard to the real living wage with an estimated date of March 2022 for completion of the exercise.

### **35. Glenlivet Estate Masterplan [Para 6]**

A report by the Depute Chief Executive (Economy, Environment and Finance) invited the Council to nominate Members to participate in the Glenlivet masterplan steering group and advisory group and sought funding to support the project.

Councillor Wilson nominated Councillor Ross to participate in the steering group. This was seconded by Councillor Edwards.

There being no-one otherwise minded, the Council agreed to:

- i) approve, in principle, £10k from reserves in 2021/22 and £10k for 2022/23 towards a share of the cost of providing the Glenlivet masterplan subject to equivalent amounts being allocated by Cairngorms National Park and Highlands and Islands Enterprise;
- ii) to nominate Councillor Ross to participate in the steering group; and
- iii) nominate the 3 local members ie Councillors Nicol, Ross and Wilson to participate in the advisory group.





**Notice of Motion**

**Moray Council – 10 November 2021**

**The Queen's Platinum Jubilee**

Plans announced by the Royal Family for an extended bank holiday in June 2022 to celebrate The Queen's Platinum Jubilee and will provide an opportunity for communities and people throughout the United Kingdom to come together to celebrate the historic milestone.

It is proposed that, whilst retaining the requirement for all necessary licences and permissions, the Council waives charges (as detailed in the Council's list of charges) for these licences and permissions for events organised by communities/not for profit organisations to commemorate the Queen's platinum jubilee on the weekend of Saturday 4<sup>th</sup> and Sunday 5 June 2022.

As licencing broadly operates a cost recovery system, it is anticipated that costs would indirectly be picked up through wider licensing charges.

Cllr John Cowe  
Proposer

Cllr George Alexander  
Seconder





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**REPORT TO: MORAY COUNCIL ON 10 NOVEMBER 2021**

**SUBJECT: ARRANGEMENTS FOR THE LOCAL GOVERNMENT ELECTIONS 2022**

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

**1. REASON FOR REPORT**

- 1.1 To inform the Council of the arrangements in regard to the management of the 2022 Local Government Elections.
- 1.2 This report is submitted to Committee in terms of Section II (9) of the Council's Scheme of Administration relating to elections.

**2. RECOMMENDATION**

- 2.1 **It is recommended that the Council note the arrangements in regard to the management and administration of the 2022 Local Government Elections.**

**3. BACKGROUND AND TIMETABLE**

- 3.1 Local Government (council) elections for 26 Moray councillors across 8 multi-member wards will be held on Thursday 5 May 2022.
- 3.2 The statutory notice of election, which marks the start of the election period will be published by the Returning Officer on 14 March with the delivery of candidate nominations commencing the following day with a deadline of 30 March, thereafter the Notice of Poll will be published.
- 3.3 Information regarding the poll and accommodation follows in sections 6 and 7 of this report.
- 3.4 The count will take place using Single Transferable Vote (STV) and will be counted electronically (eCount) on Friday 6 May at the Elgin Town Hall, and is expected to conclude around mid-afternoon depending on whether there are any pandemic restrictions remaining at that time.

#### **4. PRE ELECTION PERIOD / NOMINATIONS**

- 4.1 The 'pre-election' period is the period between the announcement of an election on Monday 14 March and polling day on Thursday 5 May, inclusive.
- 4.2 The Council's actions with regard to political publicity are governed by the Local Government Act 1986. Updated guidance regarding the 'pre-election' period will be circulated by the Returning Officer prior to the election. The guidance will highlight the need for heightened sensitivity during the election period, ensuring public resources are not used in a way that might prejudice the election result.
- 4.3 The guidance will be circulated among all elected members and staff and managers will be asked to ensure any activity undertaken by staff is in line with the guidance provided, if any doubt arises this will be referred to the Returning Officer in the first instance.

#### **5. AWARENESS AND PARTICIPATION**

- 5.1 Under Section 26 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 the Returning Officer must take steps during a Local Government election to encourage participation in the electoral process in the area for which they act.
- 5.2 The Elections office will be making use of national candidate and voter awareness and participation materials and dovetailing with national campaigns promoted by the Electoral Commission and CoSLA.
- 5.3 A public pre-nomination information session for prospective candidates will be held in February 2022 and will be advertised in due course. Following the close of nominations, briefing sessions for candidates and appointed election agents will be held by the Returning Officer to communicate conduct, poll and count arrangements.

#### **6. STAFFING**

- 6.1 The final 2 months prior to poll require significant additional input and therefore Moira Patrick, Democratic Services Manager and Alasdair McEachan, Head of Governance, Strategy and Performance will be appointed as Depute Returning Officers for the statutory period, 14 March to 6 May 2022.
- 6.2 Approximately 190 temporary polling staff will be recruited and trained by the Elections Office to support around 80 Polling Stations across Moray. In addition approx. 20 temporary staff will be required for Postal Vote Verification and approximately 45 temporary staff to support the eCount.

#### **7. ACCOMMODATION**

- 7.1 A temporary elections office will be established within the Council HQ during the election period to maintain the electoral integrity and confidentiality. In addition the training suites within the Council HQ Annexe will be used for postal vote verification during the period 25 April – 8 May 2022.

- 7.2 Approximately 58 venues across Moray will be used as Polling Places. Three primary schools will be used as polling places on 5 May 2022, being Pilmuir, Seafield and Greenwards, with only Greenwards being closed to school pupils on polling day. Operation of these sites will be monitored closely on polling day by polling place inspectors.

## 8. COUNT

- 8.1 Preparations for the election commenced in 2020 due to the lead-in time for the eCount. The eCount will take place at Elgin Town Hall which will be used from 1 May until 6 May inclusive to allow for the set-up, implementation and dismantling of the eCount equipment by contractors.
- 8.2 Scottish Ministers have put in place a national contract to deliver electronic counting of the votes during the election due to the complex nature of STV. As part of this agreement the Returning Officer (RO), alongside all other Scottish RO's, are working with Fujitsu and the Scottish Government to deliver the electronic counting of ballot papers at this election.

## 9. ELECTION COSTS

- 9.1 The Council require to budget for an expenditure projected at £199,000 in order to allow the Returning Officer to conduct this election. As in 2017, the Scottish Government will meet the costs associated with the eCounting solution with the local authority meeting related costs within the contract for producing ballot papers, postal voting packs, sundries, count venue hire, staffing and training costs.\*

### Summary of Budget Estimates

	£ ,000
Poll cards <i>including, printing, postage and Royal Mail licences</i>	32
Postal Voting <i>including, printing, postage, Royal Mail licences and processing and verification costs</i>	49
Polling Station provision <i>including equipment, ballot books, staffing, accommodation and conveyance costs</i>	75
Administration and Office costs <i>including nomination and statutory notice costs and election stationery printing for all polling stations</i>	18
Electronic Count (eCount) <i>including staffing, accommodation and ballot paper costs</i> <i>*excludes eCount software and hardware costs met by Scottish Gov.</i>	25
<b>Total Expenditure for Election</b>	<b>199</b>

- 9.2 Costs have increased since 2017 in some areas including, but not limited to postage for poll cards and postal votes, publication of notices, increased rental and cleaning costs for polling places, increased temporary staff costs, increased electorate and a higher proportion of electorate choosing to vote by post. The outline costs detailed above are only an estimate and can vary for a number of reasons largely out with our control:
- number of candidates in each ward who stand determine the final size of the ballot papers and sizes of statutory public notices which vary costs;
  - final number of postal voters (approx. 26% of electorate) which is not known until the register closes in April, this has a cost implication in terms of postage and stationery;
  - the number of postal voters who choose to cast their vote (approx. 71% in 2017) as this has an impact on return postage and processing costs.
- 9.3 No costs have yet been budgeted for Covid control measures that might be required at the poll or count, as it is unclear what restrictions, if any, will be in place in April-May 2022. Equipment such as screening, retained after the last election in May 2021 will be reused, where appropriate, with consumable costs for sanitiser and masks for example arising in addition to those costs outlined in paragraph 9.1 above.

## **10. SUMMARY OF IMPLICATIONS**

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

Election processes support the corporate and LOIP plan values of promoting equalities and awareness, and empowering community participation and involvement.

### **(b) Policy and Legal**

The administration of all elections is a statutory duty of the Local Authority and subject to the main legal provisions noted below:

- Representation of the People Act 1983
- The Scottish Local Government Elections Order 2011
- Scottish Local Government (Elections) Act 2009
- Local Electoral Administration and Registration Services (Scotland) Act 2006
- Scottish Elections (Reform) Act 2020
- The Council's actions with regard to political publicity are governed by the Local Government Act 1986

There are approximately 39 pieces of other legislation pertaining to the conduct of these elections.

### **(c) Financial implications**

The projected cost of the election is approx. £199,000 to the Council as outlined in Section 9.

### **(d) Risk Implications**

The statutory electoral process, management and planning of the election is subject to project plans, business continuity plans, risk assessment and registers as required and as part of the Returning

Officer's obligation to meet performance standards monitored by the Electoral Commission.

**(e) Staffing Implications**

As outlined in Section 4 – Staffing. The Democratic Services Manager will retain all existing management responsibilities whilst taking on the additional responsibilities of Depute Returning Officer. The Elections Officer, Committee Services & Elections Support Officer and Democratic Services Manager will undertake additional hours to accommodate the workload required to deliver this election.

**(f) Property**

Under the Representation of the People Act 1983 (s.96) a candidate is entitled, for the purpose of holding public meetings, to the use free of charge at reasonable times, local authority maintained meeting rooms or school.

**(g) Equalities/Socio Economic Impact**

Under the Local Electoral Administration and Registration Services (Scotland) Act 2006 (s.26) the Returning Officer must take such steps to encourage participation by electors in the electoral process in the area for which they act. The Returning Officer will administrate the election in line with existing measures in electoral legislation relating to provisions made for overseas voters, disabled voters, postal and proxy voters, accessibility, large print notices and support for voters in polling stations, and promote the national fund for disabled candidates to access the electoral process. This is in addition to supporting and disseminating information relating to national campaigns specifically targeting certain demographic groups.

**(h) Consultations**

Consultation has been undertaken with the Corporate Management Team regarding the briefing session for potential candidates.

**11. CONCLUSION**

**11.1 The Council has a statutory duty in regard to all matters relating to elections. It is recommended that the Council notes the proposed arrangements for the Local Government Elections and rescheduling of the Council meeting as outlined.**

Author of Report: Moira Patrick, Democratic Services Manager and  
Alison Davidson, Elections Officer







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**REPORT TO: MORAY COUNCIL ON 10 NOVEMBER 2021**

**SUBJECT: INITIAL REVIEW PROPOSALS FOR UK PARLIAMENTARY CONSTITUENCIES**

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

**1. REASON FOR REPORT**

- 1.1 To inform the Council of the initial proposed changes to the UK Parliamentary (UKP) constituency in the Moray Council area.
- 1.2 This report is submitted to Council in terms of Section (II) (9) of the Council's Administrative Scheme relating to elections and electoral boundaries.

**2. RECOMMENDATION**

**2.1 It is recommended that the Council:**

- i) **consider and note the proposals made by the Boundary Commission for Scotland for the constituency covering the Moray Council area; and**
- ii) **agree whether to submit a consultation response to the Boundary Commission for Scotland and provides guidance on the content of any response.**

**3. BACKGROUND**

- 3.1 The Boundary Commission for Scotland (BCS) has been tasked by the Parliamentary Constituencies Act 1986 to undertake a review of UK Parliamentary (UKP) constituencies. The BCS must submit their report to the Secretary of State for Scotland and thereafter recommendations to the Speaker of the UK Parliament by 1 July 2023. On acceptance the revised constituencies will be used in future UK Parliamentary elections thereafter.
- 3.2 The Moray Local Authority area (LA) is currently covered by one UKP constituency of Moray, the boundary of which is coterminous with the LA boundary with an electorate at the time of review, being 71,537 as at 2 March 2020.

- 3.3 Existing constituency boundaries in Moray have been in place since 2005 and have been used in the last 5 general elections.
- 3.4 Scotland has been allocated 57 UKP constituencies in this review, two fewer than the present 59 UKP constituencies. Each new UKP constituency, with the exception of two protected island UKP constituencies, has between 69,724 – 77,062 electors.
- 3.5 The BCS form their constituency design proposals with reference to legal procedure and balancing inter-dependent requirements including the legal parameters of;
- total size in km<sup>2</sup>, not exceeding 13,000km<sup>2</sup>
  - total constituency electorate within 5% of UK electoral quota of 73,393

and their own policy principles which the BCS have set out as:

- recognising community ties
  - special geographic considerations
  - local geography including transport links, other electoral and administrative boundaries, and natural features
  - do not cross a council area boundary, or where not practicable propose constituencies that are each wholly within two neighbouring council areas.
  - minimise disruption caused by any boundary changes
- 3.6 The BCS published initial proposals for 57 new UKP constituencies on 14 October 2021, seeking responses by interested parties by 8 December 2021.

#### **4. BOUNDARY COMMISSION PROPOSALS**

- 4.1 The initial BCS proposals will see Moray LA area become part of three new UKP constituencies as noted below. These constituencies form part of the wider Aberdeen City, Aberdeenshire, Argyll and Bute, Highland and Moray council area groupings;

<b>New Constituency</b>	<b>Electorate</b>	<b>Area covers*</b>	<b>Moray local government wards</b>
Banff and Buchan	72,837	Aberchirder, Buckie, Keith, Fraserburgh, Maud, Mintlaw, Peterhead	2 – Keith and Cullen 3 - Buckie
Gordon and Moray South	73,121	Ellon, Huntly, Turriff, Inch, Inverurie, Kintore, Old Meldrum, Dallas, Rothes, Aberlour, Dufftown, Tomintoul	1 – Speyside Glenlivet
Highland East and Elgin	72,038	Badenoch and Strathspey, Nairn, Forres, Lossiemouth and Elgin	4 – Fochabers Lhanbryde 5 – Heldon and Laich 6 – Elgin City North 7 – Elgin City South 8 - Forres

*\* not exhaustive, main communities listed only for reference*

- 4.2 The maps of the proposed UKP constituencies provided by the BCS are contained within **Appendix 1** to this report.

## **5. COMMENTARY AND CONSIDERATIONS**

- 5.1 Historically the UKP constituency covering the Moray area covered the whole Moray council and previously Moray District area. In 1983 the current Moray UKP constituency was created from the former constituencies of Moray and Nairn and Banffshire. Between 1997-2005 the Moray UKP constituency covered a slightly smaller area excluding an area to the west, including Keith.
- 5.2 In 2011-2013, the BCS commenced a review which was later abandoned. The initial proposals for Moray at that time were a constituency which encompassed the current Moray constituency and Ward 21 (Badenoch and Strathspey) of the Highland Council area and the renaming the constituency 'Moray and Strathspey'. On 20 October 2016 the BCS published initial proposals for the 2018 review which resurrected the final proposals from the previously abandoned 2011 -13 review. The final proposals were later revised following our response to the consultation to become a constituency of "Moray and Nairn" which encompassed the Moray constituency plus Ward 19 (Nairn) of the Highland Council. Paragraph 18 of the minute of the meeting of the Moray Council dated 7 December 2016 refers.
- 5.3 Due to the legislative constraints in the review rules for the redistribution of seats and equalisation of constituency electorates it is considered unlikely the BCS will amend their proposals to leave Moray UKP constituency as it currently stands. In the interests of the electorate/local authority residents it is considered a representation should be made to make the view of the council known on the initial proposals set out.
- 5.4 The design of the proposed UKP constituencies is beyond any historical constituency boundaries that may have been recognised previously.
- 5.5 The splitting of the Council area into three new UKP constituencies and their resulting design does appear not to meet with many of the policy principles as described in section 3.5.
- 5.6 The new UKP constituency boundaries proposed are based on building blocks of individual local government wards and notably there are no Moray local government wards which have been traversed by the proposed UKP constituency boundaries.
- 5.7 Due to the growth in Elgin and spread of residential development up to, and out with the current boundaries of Wards 6 - Elgin City North into Ward 4 - Fochabers Lhanbryde / Ward 5 – Heldon and Laich and in Ward 7 – Elgin City South into Ward 4 – Fochabers Lhanbryde / Ward 5 - Heldon and Laich it is likely at the next local government review due approximately 2024 – 2028 that ward boundaries may vary significantly within the confines of the procedures for reviewing boundaries, to accommodate this growth.
- 5.8 Any newly laid UKP constituencies (should these initial proposals be taken forward) may traverse future ward boundaries to the south of Elgin and

potentially cause issues in terms of provision of polling places and cross constituency conflicts during elections. Local government ward boundaries are reviewed by Boundaries Scotland and not the BCS.

- 5.9 The BCS recommend names for constituencies and encourage local authorities to submit suggestions to them during the review.

## **6. SUMMARY OF IMPLICATIONS**

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

None

**(b) Policy and Legal**

The legislation governing this review is set out in the Parliamentary Constituencies Act 1986, and the BCS have also published their policies and procedures on their website in relation to this review.

**(c) Financial implications**

No direct implications have been identified from the publication of these initial proposals.

**(d) Risk Implications**

The initial proposals due to their radical boundary changes are disruptive to political and community organisations as well as potentially causing administrative issues for both the local authority in conducting its business and delivering services and the Grampian Valuation Joint Board in administering the electoral register.

Quality of representation may suffer for Moray council area as a whole due to the area being represented by three different Members of Parliament potentially of differing political affiliation. These members will have to build new relationships with these revised areas that have differing demographics, and economic and social issues. In addition refer to section 5, 6e and 6g below.

**(e) Staffing Implications**

In the event that these proposals are accepted by ministers, there will be a change to how elections are administered during a UK Parliamentary election in the Moray area which will have staffing implications.

It is unclear at this stage whether responsibility will be given to the Moray Council Returning Officer for the Highland East and Elgin constituency or whether this would remain with the Highland Council Returning Officer during a general election. From reviewing the BCS material and the geographic and population spread of the proposed constituencies the Banff and Buchan / Gordon and Moray South constituency it is assumed this would become the responsibility of the Aberdeenshire Council Returning Officer during a general election. This would be subject to further legislation when the constituency boundaries are formally laid.

**(f) Property**

No direct implications identified currently from the publication of these initial proposals.

**(g) Equalities/Socio Economic Impact**

From an elections perspective there is an expectation these changes will not put one or more groups of people at a disadvantage through direct discrimination but will disadvantage some groups by geographical remoteness or disconnect from historically recognised boundaries and thereby access to the electoral and democratic process. The grouping of communities with little in common and where there is keen sense of identity is likely to be contentious. This may have a negative impact on voter participation and awareness and cause voter confusion.

**(h) Consultations**

Consultation has been undertaken with the Chief Executive, Returning Officer, Democratic Services Manager, Equalities Officer and Tracey Sutherland, Committee Services Officer.

**5. CONCLUSION**

- 5.1 The Boundary Commission for Scotland have proposed major changes to the UK Parliamentary constituency which currently covers the Moray council area. Should the proposals be accepted by ministers, the change in electoral boundaries will have wide ranging impacts for representation for voters, delivery of elections, and for staff and elected members engaging with Members of Parliament.**

Author of Report: Moira Patrick, Democratic Services Manager  
Alison Davidson, Elections Officer

Background Papers:  
Ref: SPMAN-2045703626-114 / SPMAN-2045703626-115

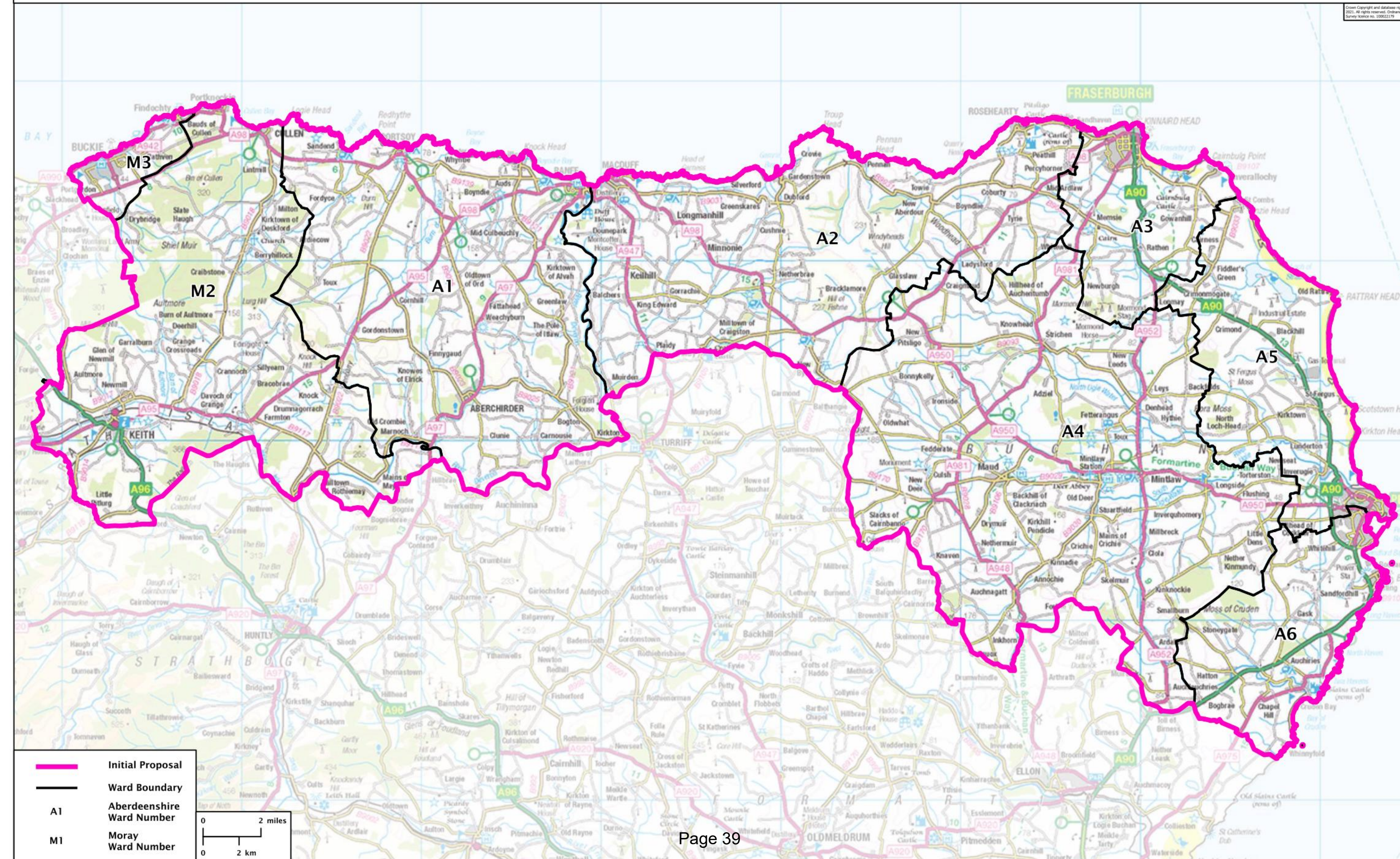




# 2023 Review of UK Parliament Constituencies - Initial Proposals

## Banff and Buchan County Constituency - Electorate 72,837

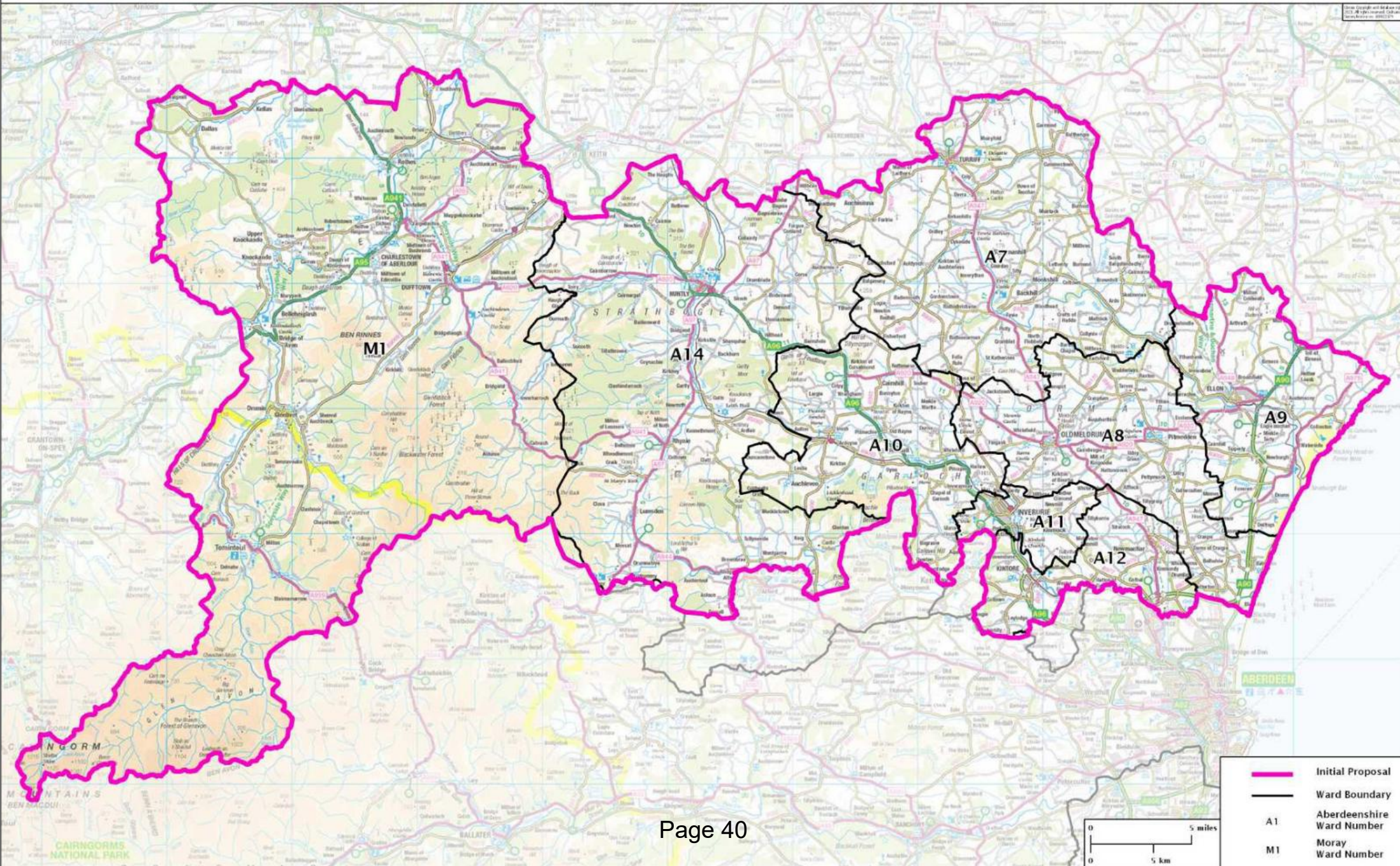
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# 2023 Review of UK Parliament Constituencies - Initial Proposals

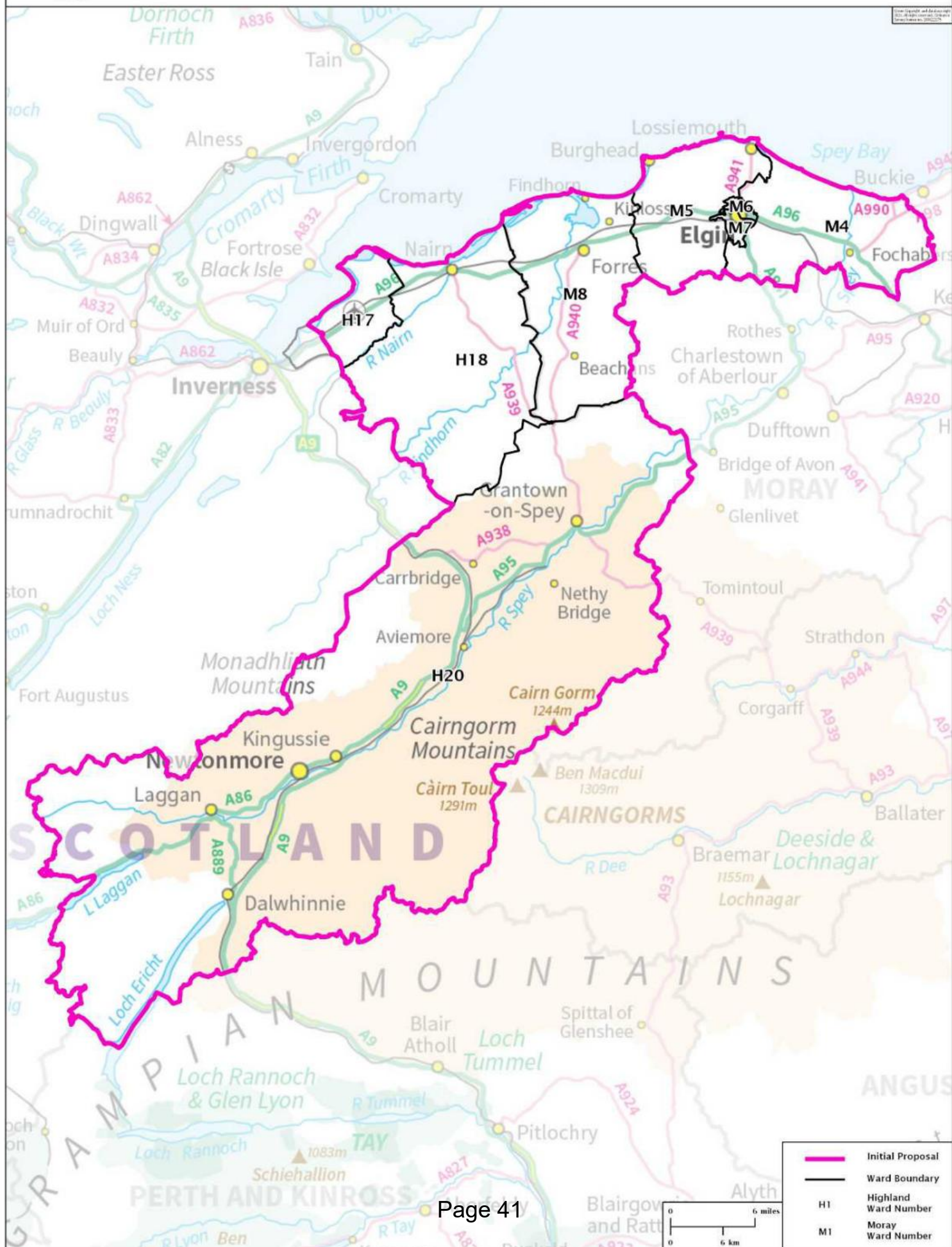
## Gordon and Moray South County Constituency - Electorate 73,121





# 2023 Review of UK Parliament Constituencies - Initial Proposals

## Highland East and Elgin County Constituency - Electorate 72,038







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**REPORT TO: MORAY COUNCIL ON 10 NOVEMBER 2021**

**SUBJECT: REMIT OF THE AUDIT AND SCRUTINY COMMITTEE**

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

**1. REASON FOR REPORT**

- 1.1 The report seeks the Council approval, as part of the final stage of the Council's review of committee governance arrangements, to clarify the scrutiny remit of the Audit and Scrutiny Committee and approve a Scrutiny Guide.
- 1.2 This report is submitted to Committee in terms of Section II (10) of the Scheme of the Council's Scheme of Administration, changes in committee responsibilities.

**2. RECOMMENDATION**

**2.1 It proposed that the Council:**

- (i) agree the remit of the Audit and Scrutiny Committee contained in paragraph 4.2 below;
- (ii) agree that the Council's Scheme of Administration is revised to reflect the remit in terms of Appendix 1;
- (iii) approve the Scrutiny Guide attached as Appendix 2 to be adopted as part of the Council's Second Tier Governance Documents;
- (iv) consider reducing the frequency of meetings of the Audit and Scrutiny Committee from 8 weekly to quarterly; and
- (v) consider reducing the number of Members who sit on the Audit and Scrutiny Committee.

**3. BACKGROUND**

**Recent committee decisions**

- 3.1 Following a governance review the Council agreed changes to its committee structure at a meeting on 30 June 2021 (para 24 of the [minute](#)). The Scheme

of Administration was revised to reflect these changes and agreed at a meeting of the Council on 15 September 2021 (para 32 of the minute refers).

3.2 Two issues are outstanding from the 30 June decision:

- Clarify the scrutiny role of the Audit and Scrutiny committee with reference to a separate scrutiny guidance document.
- Consider the merit of a sub-committee for Children's Services with recommendations to the Education, Children's and Leisure Services Committee.

3.3 This report deals with the outstanding scrutiny issue. A separate report on this agenda addresses the position in relation to the Children's Services sub-committee.

#### **Statutory background**

3.4 Whilst there is no explicit statutory duty on local authorities in Scotland to put scrutiny measures in place, there is a statutory duty to pursue Best Value. Scrutiny and continuous improvement arrangements are closely linked to Best Value and are subject to Best Value recommendations by Audit Scotland.

#### **Scrutiny through committees**

3.5 Local authorities in Scotland approach scrutiny in different ways:

- In local authorities with an administration led **cabinet or executive** committee there is a need to have a separate scrutiny committee (or committees) with wide ranging call in powers to achieve political balance.
- In local authorities where the administration group significantly outnumbers opposition groups then more robust and formal scrutiny arrangements may be needed to achieve political balance.
- In local authorities where there is a finer political balance then scrutiny tends to be "frontloaded", largely taking place in meetings of the Council and service committees.

3.6 Whatever model is adopted it is important to ensure that there are adequate opportunities for Members to scrutinise service policy, decision making and performance and that scrutiny arrangements are kept under regular review to ensure that they meet the needs of the organisation.

3.7 Scrutiny of service policy, decision making and performance used to take place through the Council's Audit and Performance Review Committee. The Council chose to move this scrutiny function to service committees in a review of the Scheme of Administration in 2014 at which time the committee was renamed the Audit and Scrutiny Committee.

3.8 Since then service committees undertake the bulk of scrutiny activity in the Council with active questioning and monitoring of progress against agreed outcomes. The role of the Audit and Scrutiny Committee has been less clear in relation to its scrutiny function and would benefit from further definition.

### **Scrutiny guidance and training**

- 3.9 In addition to the committee scrutiny function a number of local authorities have additional guidance and training for Members. The Audit and Scrutiny committee have identified that the Council would benefit from a scrutiny guidance document and considered a draft [Scrutiny Handbook](#) at their [meeting](#) on 19 November 2019 (para 6 of the [minute](#)). This meeting agreed to set up a working group to consider the terms of a scrutiny handbook, however with the time and logistical pressures of the pandemic and then the subsequent governance review this working group has not met.

### **External scrutiny**

- 3.10 In addition to scrutiny by Members through committees there are a number of ways in which effective scrutiny of Council policies, decision making and performance can take place. These are shown in draft Scrutiny Guide detailed at paragraph 4.3 below and attached as **Appendix 2**

## **4. PROPOSALS**

- 4.1 Given the healthy level of scrutiny that takes place in the Council and its service committees it is considered appropriate that the Audit and Scrutiny committee assume a “safety net” role to pick up on areas which have been flagged by internal audit or external audit and regulators and ensure that these are followed through for improvement action.

- 4.2 It is proposed that the scrutiny role of the committee is defined as follows:

To scrutinise areas of policy, service delivery or performance identified for improvement in:

- (i) internal and external audit reports where sufficient evidence of progress from the appropriate committee is not available;
- (ii) reports or findings from external regulators where sufficient evidence of progress from the appropriate committee is not available.

To receive reports on the performance of and trends within the Council’s services as a whole in terms of the Local Government Benchmarking Framework.

- 4.3 The Audit and Scrutiny Committee would be empowered to make recommendations to service committees in the areas identified for improvement.
- 4.4 To help clarify the scrutiny function within the Council, improve the quality of frontline scrutiny by service committees and assist Members in this process it is further proposed that the Council adopt the **Scrutiny Guide** attached as **Appendix 2** to this report and that this document is published within the [Council's Second Tier Governance Documents](#).
- 4.5 To complement the guide, the Council’s Organisational Development team are arranging further training for Members in scrutiny. This training delivery will be supported by the Improvement Service.

- 4.6 Agendas for the Audit and Scrutiny Committee tend to be shorter than for other service committees and it is proposed that the frequency of meetings is reduced from 8 weekly to 12 weekly. This reduced frequency would still allow for the timely consideration of audit reports.
- 4.7 Members may also wish to consider the number of members who sit on the Audit and Scrutiny Committee. The only membership requirement for this committee is that it should reflect political balance. There is no prescription on who the Committee chair should be although there is a convention in Moray that the chair is not a member of the administration group. Guidance and best practice suggests that a scrutiny committee benefits from its membership being drawn from more experienced Members.

## **5. SUMMARY OF IMPLICATIONS**

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

Having strong governance arrangements in place contributes to the Corporate Plan aim of having a Sustainable Council.

**(b) Policy and Legal**

There are no legal requirements in relation to scrutiny. It is a matter of policy for the council to determine.

**(c) Financial implications**

There are no direct financial implications from the recommendations in this report. Having strong scrutiny arrangements in place will assist with good financial governance.

**(d) Risk Implications**

None

**(e) Staffing Implications**

None

**(f) Property**

None

**(g) Equalities/Socio Economic Impact**

No direct implications.

**(h) Consultations**

CMT, the Head of Finance, the Audit and Risk Manager and the Chair of the Audit and Scrutiny Committee have been consulted.

**6. CONCLUSION**

- 6.1 The Council is asked to review its scrutiny arrangements, approve an update of the remit of the Audit and Scrutiny Committee within its Scheme of Administration and approve a Scrutiny Guide as part of its Second Tier Governance Documents.**

Author of Report: Head of Governance, Strategy and Performance.  
Background Papers: none  
Ref:





## Appendix 1

Scheme of Administration: Audit and Scrutiny remit

**(I) AUDIT AND SCRUTINY COMMITTEE**

The following functions of the Council shall stand referred or delegated to this Committee:

Standards

- (1) To ensure that the highest standards of probity and public accountability are demonstrated.

Audit Functions

- (2) Considering reports from the Council's Internal Auditor.
- (3) Considering reports from Audit Scotland concerning Council functions.
- (4) Contributing towards making the Council, its Committees and Services more responsive to the audit function and its purpose.
- (5) Enhancing corporate governance arrangements by promoting internal control and risk management, by supporting an anti-fraud culture, and by the review of revisions to financial procedures.
- (6) Having responsibility for focussing audit resources through a process of endorsing the five year strategic audit plan and agreeing the annual programme of work.
- (7) Monitoring delivery of the audit service through receipt of quarterly reports on work carried out by Internal Audit.
- (8) Considering reports produced by the Council's External Auditor and by Audit Scotland.
- (9) Considering the annual assurance statement provided by Internal Audit on the Council's control environment.

Scrutiny Functions

- (10) To scrutinise areas of policy, service delivery or performance identified for improvement in:  
(i) internal and external audit reports where sufficient evidence of progress from the appropriate committee is not available;

(ii) reports or findings from external regulators where sufficient evidence of progress from the appropriate committee is not available.

- (11) To receive reports on the performance of and trends within Council's services as a whole in terms of Local Government Benchmarking Framework.

#### **Inquiries**

- (12) To deal with all matters relating to local inquiries into matters affecting children.

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# SCRUTINY GUIDE

Approved by: Moray Council on [date]

Author: Head of Governance, Strategy and Performance

Date for review: Nov 2025

This document is a guide for the public, councillors and officers to how scrutiny works in Moray Council. It is divided into nine parts:

1. What is scrutiny?
2. An overview of council scrutiny
3. External scrutiny
4. Internal scrutiny
5. Scrutiny by councillors through the committee process
6. Scrutiny by councillors outside the committee process
7. The role of the Audit and Scrutiny Committee
8. Principles of good scrutiny for councillors
9. Scrutiny tools and techniques for councillors

## **1. What is scrutiny?**

1.1 The Council raises and is allocated a significant amount of public money to deliver services for the public. Effective scrutiny helps the Council demonstrate that this money is being spent wisely and accountably and that it is continually seeking to improve the services it provides to the public.

1.2 Scrutiny arrangements in Scottish local authorities are not covered by statute but are a matter for each local authority to determine.

1.3 The following extracts from the Improvement Service [Scrutiny Notebook](#) are useful:

***The overall objective of scrutiny is improvement. There is an unremitting demand upon council services to deliver real improvements to their communities, customers or users.***

***Scrutiny should be more than a process of enquiry. It is a vital component of good governance and improves councils' decision-making, service provision and cost-effectiveness.***

## **2. An overview of council scrutiny**

2.1 The following diagram shows the ways in which Council policies, actions and decisions can be scrutinised, both externally and internally.

# SCRUTINY

## OF THE COUNCIL AND ITS DECISIONS



### 3. External scrutiny

3.1 This diagram shows that, as well as being accountable to a number of external regulatory bodies, the Council are directly accountable to the public in a number of ways.

### 4. Internal scrutiny

4.1 The wide range of Council functions and the decisions required to keep these functions operating are delegated to committees (made up of councillors) and to officers. It helps to look at the different, but complementary role of councillors and officers:

**Councillors** set strategy, review resources, performance and risk through Council and Committee meetings. They are accountable to the electorate

**Officers** keep services running, implement policies/decisions and provide options to the Council and its committees for decisions to be made. They are accountable to the Council and its committees.

### 5. Scrutiny by councillors through the committee process

5.1 Most Council functions are delegated to committees which meet regularly to consider policy, budget and performance information for the services within the remit of that committee. The Council's current committee structure, as detailed in its Scheme of Administration, can be found on the following [webpage](#). [link to be inserted]

***Scrutiny is every councillor's job. It helps ensure that the Council remains transparent, accountable and open, resulting in improved public policies and services.***

***Council and committee meetings provide the primary means for councillors to carry out their scrutiny role.***

5.3 Through debate and questioning at committee councillors can query and seek assurances on:

- Budget and financial information
- Progress against plans and policies
- Service performance
- Complaints

5.4 Councillors can request further action in areas where the need for improvement action is needed:

- Further evidence, consultation, investigations facts or reports
- Closer monitoring and reporting of areas of concern

- Escalation of areas of concern

Options for “delving deeper” are explored in more detail in paragraph 9 below.

5.5 Council decisions are taken by majority vote and situations may arise where a minority group of councillors feel that they have not received adequate assurances in relation to an area of concern. The Council’s **Standing Orders** make provision for councillors to seek further scrutiny on any topic by

- Seeking **clarification** on minutes of prior meetings
- Raising a **Notice of Motion**
- Submitting a **Written Question** to the committee chair which is answered in public session.
- Asking a verbal question during **Question Time** at a committee meeting.

## **6. Scrutiny by councillors outside the committee process**

6.1 There are a number of other ways in which councillors can seek assurances outside of a formal meeting:

- Informal questions to officers: Officers are generally available to answer questions raised by councillors. This provides an informal means of scrutiny and can save escalation of issues.
- Briefings to councillors. Briefings can be a useful way for information to be presented to councillors on complex issues. Councillors have the opportunity to ask questions of officers and explore options.
- Policy development meetings with officers and senior councillors.
- Project boards and working groups.

## **7. Additional scrutiny through the role of the Audit and Scrutiny Committee**

7.1 The role of the scrutiny function of the Audit and Scrutiny committee is to facilitate additional scrutiny that does not duplicate scrutiny carried out by other means.

7.2 Whilst the Chair of the Audit and Scrutiny committee has traditionally been nominated by the largest non-administration group, the role of chair and of the committee should be non-political and focused on improvement.

7.3 The role of the committee is defined in the Council’s Scheme of Administration as:

***To scrutinise areas of policy, service delivery or performance identified for improvement in:***

***(i) internal and external audit reports where sufficient evidence of progress from the appropriate committee is not available;***

***(ii) reports or findings from external regulators where sufficient evidence of progress from the appropriate committee is not available.***

***To receive reports on the performance of and trends within the Council's services as a whole in terms of the Local Government Benchmarking Framework.***

## **8. Principles of good scrutiny for councillors**

### ***8.1 The four principles of good scrutiny per the Improvement Service are:***

- To provide 'critical friend' challenge to council services as well as to external authorities and agencies;
- To reflect the voice and concerns of the public and communities;
- To lead and own the scrutiny process;
- To make an impact on the delivery and improvement of public services.

### ***8.2 Scrutiny in context***

Best practice guidance highlights that:

- In a climate of reducing resources the importance of scrutiny has never been greater.
- The principal power of a scrutiny committee is to influence the decisions and policies of the council and other organisations involved in delivering of public services.
- For scrutiny to be effective, it must be seen as an investment in improvement, which requires it to be targeted, proportionate and effective from a cost benefit perspective.

### ***8.3 Effective Scrutiny***

Whilst debate can focus on politics, it is important for effective scrutiny that:

- The focus is not on negatives or apportioning blame, but is a genuine endeavour to improve service delivery;
- An objectivity is displayed that is likely to encourage the political administration to acknowledge and accept points arising from scrutiny activity;
- There is a willingness from all party groups and individuals to make scrutiny work effectively; otherwise the reviews are unlikely to add value.

Good scrutiny can involve the public in certain situations; however the rationale for doing so would be predicated on the expected outcomes from any review taking



place. This would include consideration of the capacity of the council in terms of its governance and risk framework to take forward recommendations likely to arise from the scrutiny process and the costs of resourcing any consultation or engagement activity.

## **9. Tools and Techniques for scrutiny**

9.1 Carrying out effective scrutiny requires a number of skills. In particular, there is a need for members of the Committee to undertake useful questioning when undertaking any of the responsibilities delegated by the Council. There is also a need to understand and, where appropriate, challenge the performance data that is presented to the Committee.

9.2 This section of the guide provides some of the tools and techniques that can be useful in delivering good scrutiny across the range of functions of the Council.

### **9.3 Questioning and Listening Techniques**

#### ***(i) Why are questions important?***

Detail from officers/consultees is often the most valuable source of information. The right questions are the most effective way to get the information you want in a way that you understand. Questioning is not about winning the debate but establishing the facts. A good question will:

- Establish validity of key data
- Seek clarification
- Seek further evidence
- Explore ideas
- Question assumptions
- Challenge facts or opinion

#### ***(ii) Open Questions***

Open questions allow the respondent to inform the questioner about a situation in their own words. This gives the committee an opportunity to listen, process the response and take note of any gaps or concerns that could be crucial to the review.

An example of an open question would be:

“What are your thoughts regarding the provision of youth facilities?”

#### ***(iii) Probing Questions***

One of the most important questioning techniques for those undertaking scrutiny is the probing method. Probing questions are used to obtain further information from a respondent. For example:

Respondent: Our performance is the best in Scotland.

Questioner: "You said that our performance is the best in Scotland. How do you know? How is that measured?"

#### ***(iv) Follow Up Questions***

Follow up questions are needed if there are inconsistencies, questions not answered, answers not clear or insufficient detail. Those asking questions need to be persistent and pursue the answers they are looking for. For example:

Respondent: We benchmark with the other 31 Scottish Councils on a set of performance indicators and Audit Scotland has ranked us the best in Scotland.

Questioner: How have you achieved this?

Respondent: Our success is due to the staff involved.

Questioner: Can you explain in more detail how our staff have achieved this success?

#### ***(v) Closed Questions***

Closed questions are answered yes or no and are used to verify the situation.

Questioner: So you are saying that staff training has led to the improvement in performance?

Respondent: Yes

#### ***(vi) Good Practice in Questioning***

There is a difference between holding to account and helping to improve. A questioner will focus on points of interest and ask more about any gaps in the information. Body language and tone also make a difference. Identify the questions in advance to:

- Ensure that you know what information you want.
- Help to explain what you are trying to get at.
- Address issues that members and the public are really concerned about
- Ensure the correct person is there to deal with the questions
- Focus on helping to improve as well as holding to account
- Question like a 'critical friend'

#### ***(vii) Bad Practice in Questioning***

It is possible to ask questions that have an adverse effect on how the respondent will answer:

- Leading questions – force the respondent to answer in a certain way

- Multiple questions – confuse the respondent
- Hypothetical questions – if so unlikely to happen, why ask?
- Unfocused, broad questions – difficult to answer
- Discriminatory or offensive questions

### ***(viii) Active Listening***

We listen to obtain information, understand and learn. Research suggests that we remember between 25-50% of what we hear. In a ten minute conversation, most people will only 2.5 to 5 minutes of the conversation. Therefore:

- Focus on any introductory remarks
- Show that you are listening
- Provide feedback and check your understanding of points
- Avoid making a judgement too quickly
- Respond appropriately

## **9.4 Making Sense of Performance Data**

### ***(i) Typical Features of a Performance Report***

A typical performance report at the Council contains some common features:

- Area of performance being measured – eg education, economy, environment
- Number of performance indicators – the number used will depend on the area being reported with increasing emphasis being placed on a few key indicators.
- Target for each performance indicator – targets may be set by the Service, Partnership, nationally
- Trend information over a defined period – the Council tends to look at performance over a three year period
- Overall result for each performance indicator – often we use arrows to illustrate trends

### ***(ii) What do the statistics tell us?***

- Are we improving? Look at the trend information, what's happened over the last three years?
- Are we on track to reach our targets? Are the targets that have been set reasonable? Have we achieved what we set out to achieve? Performance trend and achievement of target are separate issues.
- Do we understand why we are performing at the current level and what is being done to improve? Is there an adequate explanation?

### ***(iii) Challenging Service Analysis***

Committee members will not necessarily be experts in all areas. There will be occasions when it is reasonable to ask questions about what Services have said. For example (data for illustration only):

Performance Area	Relevant Indicator	Target 2017/18	Performance Data and Trend		Comments	Target 2018/19
Waste collection	% of household waste collected on due date	90%	2015/16 – 80% 2016/17 – 82% 2017/18 – 83%	↑	We will continue to improve.	95%

- Do we agree that performance is improving? Over the last three years, we have improved by 3%. Is this a significant improvement?
- We have not reached our target for 2017/18. Was this ever achievable? Why is it set so high? Past performance suggests that 90% is not a realistic target. Why have we increased it to 95% for 2018/19?
- Is the comment adequate to explain why we are achieving current levels of performance? Do we know what real action is being taken to improve our performance in this area?
- Is this indicator alone enough to tell us how we are performing in the area of waste collection. What else do we need to know?

### **Further Information**

#### ***Useful Web Links***

The Centre for Public Scrutiny <http://www.cfps.org.uk>

The Improvement Services <http://www.improvementservice.org.uk>

Scottish Government <http://www.scotland.gov.uk>

Audit Scotland <http://www.audit-scotland.gov.uk/scrutiny>



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**REPORT TO: MORAY COUNCIL ON 10 NOVEMBER 2010**

**SUBJECT: PROPOSED CHILDREN'S SERVICES SUB-COMMITTEE**

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

**1. REASON FOR REPORT**

- 1.1 To consider options and the outcome of consultation over the creation of a temporary Children's Services Sub-Committee.
- 1.2 This report is submitted to Committee in terms of Section II (10) of the Scheme of the Council's Scheme of Administration, changes in committee responsibilities.

**2. RECOMMENDATION**

**2.1 It is recommended that Council:**

- (i) **consider the consultation on options for the formation of a temporary sub-committee for Children's Services detailed in paragraphs 4.1 and 4.2 below.**
- (ii) **agree to keep the status quo, with Children's Services reporting through the Education, Children's and Leisure Services Committee.**
- (iii) **note that if one of the other options in paragraph 4.2 is preferred then the following issues will need to be decided:**
  - **Chair and membership**
  - **Update to the meetings calendar**
  - **Update to the Council's Scheme of Administration**

**3. BACKGROUND**

- 3.1 The Council agreed a revised committee structure at its meeting on 30 June 2021 detailed in [para 24](#) of the minute. It further agreed:

- (iv) To instruct the Head of Governance Strategy and Performance to consult with Councillors, Council Officers and the Integration Joint Board (IJB) Chief officer on the formation of a Children's Services Sub-Committee to scrutinise performance and governance proposals during the shadow period as the service prepares to move under the governance of the IJB

and to make recommendations to the Education, Children's Services and Leisure Committee and Moray Council as appropriate

- 3.2 A revised Scheme of Administration was approved at the Council meeting on [20 September 2021](#) (para 32 of the minute refers) however the action over the formation of a sub-committee remains outstanding.
- 3.3 The current position is that the Education Children's and Leisure Services Committee has delegation from the Council to consider Children's Social Work services and residual Adult Social Work functions.
- 3.4 A decision in principle has been taken to delegate Children's Social Work services to the Moray Integration Joint Board (MIJB). Although not yet formally delegated, the MIJB Chief Officer manages these services on behalf of the Council.
- 3.5 Progress on the transfer of Children's Services to the MIJB is monitored through an Officer Board with progress updates to both the Service Committee and the MIJB. The target completion date for the transfer is April 2022 although there may be some slippage in this date.

#### 4. **PROPOSALS**

- 4.1 Three options have been identified and consulted upon:

Proposal	Pros	Cons
<p>Independent committee with <b>full decision making power</b> over Children's SW issues residual adult SW issues and consider CSWO report.</p> <p>Assume that this is the intention of the wording of motion from 30 June: <i>scrutinise performance and governance proposals</i></p> <p>Consider numbers to sit on the Committee.</p>	<p>Would relieve some time pressure for the EC+LS ctee.</p> <p>Social work officers would not have to sit through non-social work items at the meeting.</p> <p>Would allow a deeper focus on issues and closer scrutiny.</p>	<p>May not be enough material on the agenda to justify a separate meeting.</p> <p>Extra administration involved in additional meeting.</p> <p>Given target date for transfer of Children's Services to the IJB the sub-ctee would have a short life.</p>
<p>Sub-Ctee with <b>limited powers</b> to discuss items and make recommendations to EC+LS for decisions.</p> <p>Consider numbers to sit on sub-committee. Other sub committees have 7 members.</p>	<p>Would allow a deeper focus on issues.</p>	<p>Double handling of issues between both meetings could be viewed as inefficient.</p>

Keep <b>status quo</b> Children's SW services retained as a distinct part of the agenda of EC+LS.	Allows a holistic view of children.  SW and education professionals present.  Benefit for Ctee Services/ senior officers not having to service an additional meeting.	Potential for lengthy agendas.  Less efficient for officer time (not such a big issue with virtual meetings)
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- 4.2 In consultation, the Chief Officer (MIJB), the Head of Children's Services and the Head of Education have expressed a preference for the status quo on the basis that the further structural change to reporting systems is not justified for the limited period before Children's Services are potentially due to be delegated to MIJB.

## 5. **SUMMARY OF IMPLICATIONS**

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

Outcomes for children have been identified as one of the Council's highest priorities. Having strong governance arrangements in place contributes to the Corporate Plan aim of having a Sustainable Council.

**(b) Policy and Legal**

The Council's Scheme of Administration will require to be updated with any changes agreed.

**(c) Financial implications**

None

**(d) Risk Implications**

Outlined in the table above.

**(e) Staffing Implications**

Outlined in the table above.

**(f) Property**

None

**(g) Equalities/Socio Economic/Climate Change Impact**

No direct implications.

**(h) Consultations**

The Chief Officer (MIJB), Head of Children's Services and Head of Education have been consulted and their views given in paragraph 4.2 above. The Chair of Education, Children's and Leisure Services Committee, CMT and Group Leaders have also been consulted in advance of publication of this report.

## **6. CONCLUSION**

- 6.1 Options for the formation of a temporary Children's Services Sub Committee have been set out in the report.**
- 6.2 Following consultation on these options it is recommended to remain with the status quo, Children's Services reporting through Education, Children's and Leisure Services Committee, until they are formally delegated to MIJB.**

Author of Report: Alasdair McEachan, Head of Governance, Strategy and Performance.

Background Papers:

Ref: SPMAN-2045703626-117





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**REPORT TO: MORAY COUNCIL ON 10 NOVEMBER 2021**

**SUBJECT: APPOINTMENT TO OUTSIDE BODIES**

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

**1. REASON FOR REPORT**

- 1.1 To invite the Council to consider making an appointment to Moray Leisure Centre – Board of Directors following a resignation and an appointment to the Moray Anchor Network, which will oversee the development of a Community Wealth Building (CWB) Strategy for Moray
- 1.2 This report is submitted to Council in terms of Section II (12) of the Council's Scheme of Administration relating to appointments to Outside Bodies.

**2. RECOMMENDATION**

**2.1 It is recommended that the Council make an appointments to:**

- i) **Moray Leisure Centre – Board of Directors following the resignation of Councillor Taylor; and**
- ii) **Moray Anchor Network, to Chair the group and oversee the co-ordination of a Community Wealth Building Strategy.**

**3. BACKGROUND**

**Moray Leisure Centre – Board of Directors**

- 3.1 At the meeting of the Council on 24 May 2017 (para 7 of the minute refers) Councillor Taylor was appointed as one of 3 Council representatives to the Moray Leisure Centre – Board of Directors.
- 3.2 The appointments made were in accordance with the political balance at the time and were 2 from the Administration Group which was Conservative/Independent and 1 SNP.
- 3.3 Subsequent changes in the Administration of the Council and Councillor resignations from their previous groups, the membership currently consists of 2 Conservative members and 1 Independent.
- 3.4 Moray Leisure Limited – Notes on Memorandum/Articles (30) states that the

Board has a minimum of 7 members and the Council are entitled to at least 3:7 ratio on the Board.

- 3.5 On the 7 October 2021 Councillor Taylor tendered her resignation from the Moray Leisure Centre – Board of Directors.

#### **Moray Anchor Network**

- 3.6 The CWB approach aims to retain wealth within the local economy, through restricting extractive practices and providing increased control and benefits for local people. The CWB approach is constructed around five core pillars:

- Progressive Procurement
- Fair Employment and Just Labour Markets
- Shared Ownership of the Local Economy
- Socially Just Use of Land and Property
- Making Financial Power Work for Local Places

- 3.7 At its meeting on 19 October 2021, the Economic Development and Infrastructure Services Committee approved the route map to CWB strategy and delivery, including the establishment of a Moray Anchor Network to oversee the coordination of the strategy. The Committee also agreed that a further report be considered by the Moray Council regarding Elected Member representation on the Moray Anchor Network. (paragraph 8 of the minute refers).

- 3.8 Initial research has demonstrated that local political leadership in forming an anchor partnership has been essential in securing co-operation from external partners. In both Preston and North Ayrshire, who have successfully implemented local CWB strategies, this has taken the form of the Council Leader serving as Chair of the anchor partnership.

- 3.9 The Moray Anchor Network will work in collaboration with the Moray Economic Partnership (MEP) and Community Planning Partnership (CPP), to support delivery of the outcomes of the Moray Economic Strategy, Moray Economic Recovery Plan, and Local Outcome Improvement Plan.

#### **4. SUMMARY OF IMPLICATIONS**

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

The actions relating to the Moray Anchor Network will contribute towards the corporate plan priority of promoting economic development and growth, as well as the LOIP priority of a growing and sustainable economy.

**(b) Policy and Legal**  
None

**(c) Financial implications**

Allowances for nominated Members attendance at meetings of organisations appointed to are covered in the Councillors and Members Allowance Scheme.

**(d) Risk Implications**

None.

**(e) Staffing Implications**

The actions relating to forming the Moray Anchor Network will be undertaken by the CWB Officer and Senior Economic Officer for Strategy and Development.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

Development and delivery of a CWB Strategy will promote equality and growth in the local economy.

**(h) Consultations**

None.

**6. CONCLUSION**

**6.1 That the Council consider making an appointments Moray Leisure Centre – Board of Directors following the resignation of Councillor Taylor.**

**6.2 That the Council consider appointing Elected Member representation to the Moray Anchor Network to support development of a CWB Strategy for Moray.**

Author of Report: Tracey Sutherland, Committee Services Officer

Background Papers: Held by Author

Ref:





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**REPORT TO: MORAY COUNCIL ON 10 NOVEMBER 2021**

**SUBJECT: MEMBERSHIP OF MORAY INTEGRATION JOINT BOARD –  
UPDATED INTEGRATION SCHEME**

**BY: CHIEF OFFICER, HEALTH AND SOCIAL CARE MORAY**

**1. REASON FOR REPORT**

- 1.1 To request the Council approve the minor updates to the Moray Integration Joint Board (MIJB) Integration Scheme requested by the Scottish Government.
- 1.2 This report is submitted to Committee in terms of Section II (22) of the Council's Scheme of Administration relating to the Moray Integration Joint Board (MIJB).

**2. RECOMMENDATION**

- 2.1 **The Council is asked to consider and approve the updated MIJB Integration Scheme at Appendix 1.**

**3. BACKGROUND**

- 3.1 The Public Bodies Joint Working (Scotland) Act 2014 ("the Act") and the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 ("the Order") sets out requirements about the membership of an Integration Joint Board.
- 3.2 The MIJB is a legal entity that binds NHS Grampian (NHSG) and Moray Council together in a joint arrangement. The voting membership of the MIJB reflects equal participation by NHSG and Moray Council to ensure that there is joint decision making and accountability.
- 3.3 To provide greater resilience and wider scrutiny across MIJB committees the MIJB Chair and, at that time, Interim Chief Officer proposed that the number of voting members be increased by one from each partner organisation from 3 to 4 members. This proposal was presented to MIJB on 24 September 2020 (para 13 refers) in a report that also outlined that if an increase in voting members was approved by the Council and NHS Grampian, it would require an amendment to section 3.1 of the Health and Social Care Integration Scheme that was previously agreed by the MIJB at their meeting on 26 April 2018 (para 10 refers).

- 3.4 MIJB agreed to progress the proposal and subsequently a report was submitted to the Council 28 October 2020 (para 13 refers) where the recommendation to provide an additional voting member for the MIJB was agreed.
- 3.5 NHS Grampian were presented with the same proposal in December 2020 and the recommendation to provide an additional voting member for the MIJB was agreed.
- 3.6 Public consultation was undertaken in accordance with statutory guidance and there were no comments or issues raised.
- 3.7 Following approval from MIJB, Moray Council, NHS Grampian and appropriate consultation the request for an amendment to section 3.1 was submitted to the Scottish Government for ratification 10 May 2021.
- 3.8 On 9 June 2021 a response was received advising the view from Scottish Government was that this should be viewed as a successor scheme, which therefore requires review and approval by Scottish Ministers. In their response they provided comments on areas that they wished further clarification of definitions, grammar adjustments and queries around aspects that were written in the 2016 or 2018 revisions that were time limited and needing updating or removing.
- 3.9 The appendix to this report shows the amendments, through tracked changes, that have been made.
- 3.10 This revised version being submitted to the Council, was presented to NHS Grampian on 7 October 2021 and will be put out for public consultation again thereafter. Following this and once there is approval from all parties it will be submitted to Scottish Government for ratification.

#### **4. SUMMARY OF IMPLICATIONS**

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

In line with the MIJB Integration Scheme, prepared in line with the requirements of the Public Bodies (Joint Working) (Scotland) Act 2014

**(b) Policy and Legal**

Complies with the terms of the Integration Scheme.

**(c) Financial implications**

None arising directly from this report.

**(d) Risk Implications**

The additional voting members will reduce the risk that there will be insufficient scrutiny of business and lessen the risk of meetings not taking place due to a failure to achieve quoracy.

**(e) Staffing Implications**

None arising directly from this report.

**(f) Property**

None arising directly from this report.

**(g) Equalities/Socio Economic Impact**

An Equalities Impact Assessment is not required because there are no service, policy or organisational changes being proposed as a direct result of this report.

**(h) Consultations**

Consultation on this report has taken place with the Senior Solicitor (Litigation and Social Care) and Tracey Sutherland, Committee Services Officer both Moray Council and the Chief Financial Officer, Health and Social Care Moray, who are in agreement with the report where it relates to their area of responsibility.

**5. CONCLUSION**

**5.1 This report seeks approval of the updated MIJB Integration Scheme from Moray Council.**

Author of Report:	Jeanette Netherwood, Corporate Manager, HSCM
Background Papers:	with author
Ref:	SPMAN-1108985784-677
	SPMAN-1108985784-679





APPENDIX 1



# Health and Social Care Integration Scheme for Moray

**September 2021**

Deleted: March 2018

This document is also available in large print and other formats and languages, upon request. Please call NHS Grampian Corporate Communications on (01224) 551116 or (01224) 552245.

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## APPENDIX 1

### Introduction

This document outlines revised arrangements for how adults and older people care services will be integrated and delivered by The Moray Council and NHS Grampian and is prepared in line with the requirements of the [Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(the "Act"\)](#).

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In revising the 2018 Integration Scheme we have engaged with carers, people who currently use health and social care services in Moray, and our joint workforce. We have also subjected the draft revised Scheme to an extensive consultation exercise and have made further changes to the document based on the views and comments [expressed both by people and the organisations](#) who took the opportunity to respond.

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During the consultation exercise we also informed people that the contents of this revised Integration Scheme will be final and it shall not be possible to make any modifications to the revised Integration Scheme without a further consultation and approval by Scottish Ministers. We also explained that the revised Integration Scheme will set out the parameters of our Strategic Plan which will present in more detail the changes to the way we propose to deliver integrated care services in Moray in the future.

At a time when the health and social care system is facing significant demographic and financial challenges, we consider that this Integration Scheme will provide a strong foundation to how we can best improve the quality of care we deliver to the people of Moray.

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## APPENDIX 1

### Aims and Outcomes of the Integration Scheme

The main purpose of integration is to improve the wellbeing of people who use health and social care services, particularly those whose needs are complex and involve support from health and social care at the same time. The Integration Scheme is intended to achieve the National Health and Wellbeing Outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act, namely:

1. People are able to look after and improve their own health and wellbeing and live in good health for longer.
2. People, including those with disabilities or long-term conditions or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.
3. People who use health and social care services have positive experiences of those services, and have their dignity respected.
4. Health and social care services are centred [towards](#), helping to maintain or improve the quality of life of people who use those services.
5. Health and social care services contribute to reducing health inequalities.
6. People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.
7. People using health and social care services are safe from harm.
8. People who work in health and social care services feel engaged with the work they do and are supported to continuously improve the information, support, care and treatment they provide.
9. Resources are used effectively and efficiently in the provision of health and social care services.

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## APPENDIX 1

### Our Vision, Purpose, [Local](#) Principles and Values

In aiming to fulfil the above 9 National Health and Wellbeing Outcomes, the following Vision, Purpose, Local Principles and Values have been developed by listening to the views of people who presently use health and social care services in Moray or who are involved in the delivery of care and support.

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#### Our Vision

- To enable the people of Moray to lead independent, healthy and fulfilling lives in active and inclusive communities, where everyone is valued, respected and supported to achieve their own goals.

#### Our Purpose

- Through health, social care and third sector professionals and commercial providers working together with patients, unpaid carers, service users and their families, we will promote choice, independence, quality and consistency of services by providing a seamless, joined up, high quality health and social care service. When it is safe to do so, we will always do our utmost to support people to live independently in their own homes and communities for as long as possible. We will strive to ensure resources are used effectively and efficiently to deliver services that meet the needs of the increasing number of people with longer term and often complex care needs; many of whom are older.

#### Our Local Principles

- **A single point of contact.** We will make it easier for people to access information and support by having a single point of contact for accessing health and social care services where it is appropriate to do so.

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## APPENDIX 1

- **Continuity of care.** We will appoint a single lead professional across health and social care to facilitate improved communication with people in need of support and when possible we will aim to provide continuity of care.
- **Health and social care professionals share information.** We will work to ensure that people will have to tell their story only once and that their information is shared with all relevant professionals.
- **Signposting.** Information and advice should be provided in a format that is right for the person and is readily available in their community.
- **Personalisation.** Our vision means that we do not provide the same service for everyone but the right service for each person. We will always aim to provide choice and control.
- **Community outcomes.** We will aim to support local communities to determine their own health and well-being priorities and we will work in partnership towards the realisation of these agreed outcomes.
- **The conversation is at the heart of what we do and is the key to meaningful action.** Identifying positive outcomes that matter to people is based on a conversation with the service user, patient, unpaid carer and sometimes the whole community. This level of engagement is the essential first step in delivering an outcomes-based service.
- **Best value.** We will always endeavour to make the best use of public money by ensuring that our services are efficient, effective and sustainable.

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### Our values

- We will always work to support people to achieve their own outcomes and goals that improve their quality of life.
- We will always listen and treat people with respect.
- We will always value the support and contribution provided by unpaid carers.
- We will respect our workforce and give them the support and trust they need to help them achieve positive outcomes for the people of Moray.

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## APPENDIX 1

### Integration Scheme

#### The parties:

##### MORAY COUNCIL,

established under the [Local Government etc. \(Scotland\) Act 1994](#) and having its principal offices at Council Offices, High Street, Elgin, Moray IV30 1BX (hereinafter referred to as “the Council” which expression shall include its statutory successors);

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And

##### GRAMPIAN HEALTH BOARD,

established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as “NHS Grampian”) and having its principal offices at Summerfield House, 2 Eday Road, Aberdeen AB15 6RE (hereinafter referred to as “NHS Grampian” which expression shall include its statutory successors)

(together referred to as “the Parties”, and each being referred to as a “Party”)

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## APPENDIX 1

### 1. Definitions and Interpretation

- 1.1 In this Integration Scheme, the following terms shall have the following meanings:-

"Accountable Officer" means the National Health Service ("NHS") officer appointed in terms of section 15 of the Public Finance and Accountability (Scotland) Act 2000;

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"Chief Officer" means the Officer appointed by the Integration Joint Board (IJB) in accordance with section 10 of the Act;

"Chief Social Work Officer" means the officer appointed by Moray Council in terms of Section 3 of the Social Work (Scotland) Act 1968

"Clinical, Care and Governance Committee" means the IJB committee that supports and assists the Board in achieving their clinical and care governance responsibilities in compliance with the Health and Social Care Integration, Clinical and Care Governance Framework Version 1 (Scottish Government published October 2015).

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"Clinical Lead" means the registered medical practitioner who delivers primary care services or some other registered health care professional who delivers services within a community context who is appointed by the Chief Officer and the Medical Director of NHS Grampian;

"Community Planning Board" means the Moray Community Planning Board established in terms of the Community Empowerment (Scotland) Act 2015 to consider the strategic development and monitor the performance of the partner agencies within Moray (which include both Moray Council and NHS Grampian) in delivering Locality Plans, the Local Outcomes Improvement Plan and any wider CPP national matters.

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## APPENDIX 1

“Direction(s)” means an instruction(s) from the Integration Joint Board in accordance with section 26 of the Act;

“Executive Director of Nursing and Midwifery” means the post that is accountable for professional leadership for Nurses, Midwives and Allied Health Professionals within the organisation; setting standards and ensuring the delivery of compassionate, caring and effective patient and family centred services.

“IJB” means the Moray Integration Joint Board established by an Order made in accordance with section 9,

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“IJB Order” means the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014;

“Integrated Budget” means the budget for the delegated resources for the functions set out in the Scheme;

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“Integrated Services” means the functions and services listed in Annexes 1 and 2 of this Scheme;

“Joint Performance Management Plan” means a resource which provides a list of targets and measures for use within a performance framework;

“Integrated Workforce Plan” means the three year plan for workforce resources, produced collaboratively with Moray Council and NHS Grampian, aligned to the objectives of IJB and in accordance with the guidance from Scottish Government.

“NHS Grampian Clinical and Care Governance committee” means the committee that is responsible for demonstrating compliance with statutory requirements in relation to clinical governance, authorising an accurate and honest annual clinical governance statement and responding to scrutiny and

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## APPENDIX 1

improvement reports by external bodies such as Healthcare Improvement Scotland (or any successor)

“Organisational Development Strategy” means the overarching planned and systematic approach to developing the culture and improving the effectiveness of the organisation, through engagement, communication, training and development of staff. It aligns strategy, individuals processes and values.

“Outcomes” means the Health and Wellbeing Outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act;

“Payment” means all of the following: a) the Integrated Budget contribution to the Integration Joint Board; b) the resources paid by the Integration Joint Board to the Parties for carrying out a Direction, or Directions, in accordance with section 27 of the Act and c) does not require that a bank transaction is made;

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“Section 95 Officer” means the statutory post under the Local Government (Scotland) Act 1973 being the Accountable (Proper) Officer for the administration and governance of the financial affairs of the Council;

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“Strategic Plan” means the plan which the Integration Joint Board is required to prepare and implement in relation to the delegated provision of health and social care services to adults in accordance with section 29 of the Act;

“Strategic Planning and Commissioning Group” means the forum that assists the IJB and Chief Officer through the development of key strategic outcomes and oversees, drives and strengthens strategic planning and commission of health and social care services across Moray.

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“Strategic Risk Register” means the register that outlines the identified risks to the implementation and achievement of the outcomes contained in the strategic plan, showing the controls, mitigation actions and potential impacts if the risk materialises.(17)

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## APPENDIX 1

"The act" means the Public Bodies (Joint Working) (Scotland) Act 2014;

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"The Administration Scheme" means the document that sets out the governance and structure by which the MIJB conducts its affairs. It details the structure of its Committees and the functions referred to these Committees

"the Integration Scheme Regulations" means the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014;

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"the Scheme" means this Integration Scheme;

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"The Parties" means the Moray Council and NHS Grampian;¶

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1.2 In implementation of their obligations under the Act, the Parties hereby agree as follows:

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1.3 In accordance with section 1(2) of the Act, the Parties agreed that the integration model set out in sections 1(4)(a) of the Act would be put in place for the IJB, namely the delegation of functions by the Parties to a body corporate that is to be established by an Order made in accordance with section 9 of the Act. The Moray Integration Joint Board was established by a Parliamentary Order on 6 February 2016.

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## 2. Local Governance Arrangements

2.1 Requirements are contained in the Act including the detail of the remit and constitution of the IJB but for context the following is repeated here:

2.1.1 The remit of the IJB is to prepare and implement a Strategic Plan in relation to the provision of health and social care services to adults in their area in accordance with sections 29-39 of the Act.

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## APPENDIX 1

2.1.2 The regulation of the IJB's procedure, business and meetings and that of any Committee of the IJB will follow the IJB Order and the [standing orders](#) which will be agreed by the IJB, and which may be amended by the IJB. The Standing Orders will be set out in a separate document.

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2.1.3 NHS Grampian and the Council will continue to have in place an appropriate governance structure to ensure effective delivery of any functions or services not delegated as part of this [scheme](#).

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2.1.4 NHS Grampian and the Council and any of their Committees will positively support through productive communication and interaction the IJB and its Committees to allow it to achieve its Outcomes and Vision. The IJB will similarly support through productive communication and interaction NHS Grampian and the Council and any of their Committees in their delivery of integrated and non-integrated services.

2.1.5 The IJB has a distinct legal personality and the autonomy to manage itself. There is no role for NHS Grampian or the Council to independently sanction or veto decisions of the IJB.

2.1.6 The IJB will create such Committees that it requires to assist it with the planning and delivery of [Integrated Services](#).

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2.1.7 The IJB is a statutory partner in the Community Planning Partnership in terms of s.4(1) and Schedule 1 of the Community Empowerment (Scotland) Act 2015 and as such will be a member of the Community Planning Board and shall, along with the other statutory partners, report to the Community Planning Board. The IJB shall assist in the identification of priorities for the Community Planning Board's strategic partnerships as appropriate.

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## APPENDIX 1

### 3. Board Governance

3.1 The arrangements for appointing the voting membership of the IJB in accordance with the IJB Order are as follows:-

3.1.1 The Council shall nominate four councillors; and

3.1.2 NHS Grampian shall nominate four non-executive directors (if unable to do so then it must nominate a minimum of three non-executive directors and one executive director).

3.2 The voting membership of the IJB shall be appointed for a term of up to 3 years.

3.3 Provision for the disqualification, resignation and removal of voting members is set out in the IJB Order.

3.4 The IJB is required to co-opt non-voting members to the IJB.

3.5 The non-voting membership of the IJB is set out in the IJB Order and includes (subject to any amendment of the IJB Order):

- a) the chief social work officer of the local authority;
- b) the Chief Officer, once appointed by the IJB;
- c) the proper officer of the integration joint board appointed under section 95 of the Local Government (Scotland) Act 1973;
- d) a registered medical practitioner whose name is included in the list of primary medical services performers prepared by NHS Grampian in accordance with Regulations made under section 17P of the National Health Service (Scotland) Act 1978;
- e) a registered nurse who is employed by NHS Grampian, or by a person or body with which NHS Grampian has entered into a general medical services contract;
- f) a registered medical practitioner employed by NHS Grampian and not providing primary medical services; and
- g) a professional representative from Public Health

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## APPENDIX 1

and at least one member of each of the following groups:

- h) staff of the constituent authorities engaged in the provision of services provided under integration functions;
- i) third sector bodies carrying out activities related to health or social care in the area of the local authority;
- j) service users residing in the area of the local authority; and
- k) persons providing unpaid care in the area of the local authority.

3.6 NHS Grampian will determine the non-voting representatives listed in d)-f) above, in accordance with the terms of the IJB Order.

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3.7 The arrangements for appointing the Chair and Vice Chair of the IJB are as follows:-

3.7.1 The first Chair was nominated by the Council.

3.7.2 The first term of the Chair began on the date the IJB was established and continued until 30 September 2016 and second term of the Chair commenced 1 October 2016.

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3.7.3 Further terms of the Chair are for a period of 18 months.

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3.7.4 The Parties are entitled to change the person appointed by them as Chair or Vice Chair during the appointed period via the appropriate governance procedures within the Parties.

3.7.5 After the term of the first Chair came to an end, the Vice Chair became the next Chair and the outgoing Chair's organisation then nominated the next Vice Chair, which the IJB appointed.

3.7.6 The Parties must alternate which of them is to appoint the Chair in respect of each successive appointing period. The organisation which has not nominated the Chair shall nominate the Vice Chair.

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## APPENDIX 1

### 4. Delegation of Functions

4.1 The functions that are to be delegated by NHS Grampian to the IJB are set out in Part 1 of Annex 1 and are subject to the exceptions and restrictions specified or referred to. The services to which these functions relate, which are currently provided by NHS Grampian, and which are to be integrated, are set out in Part 2 of Annex 1. For the avoidance of doubt the functions listed in Part 1 of Annex 1 are delegated only to the extent that they relate to the services listed in Part 2 of Annex 1 and there are certain services in respect of which functions are delegated for all age groups and certain services in respect of which functions are delegated for people over the age of 18 only.

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4.2 The functions that are to be delegated by the Local Authority to the IJB are set out in Part 1 of Annex 2 and are subject to the exceptions and restrictions specified or referred to. The services to which these functions relate, which are currently provided by the Local Authority and which are to be integrated, are set out in Part 2 of Annex 2. For the avoidance of doubt the functions listed in Part 1 of Annex 2 are delegated only to the extent that they relate to the services listed in Part 2 of Annex 2 and are provided to persons of 18 years and over.

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4.3 In the delegation of functions, the Parties recognise that they will require to work together, and with, the IJB, to achieve the Outcomes. Through local management, the Parties will put arrangements in place to avoid fragmentation of services provided to persons under 18 years. In particular, the community health services for persons under 18 years of age set out in Part 3 of Annex 1 shall be operationally devolved by the Chief Executive of NHS Grampian to the Chief Officer of the IJB who will be responsible and accountable for the operational delivery and performance of these services.

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## APPENDIX 1

4.4 In exercising its functions, the IJB must take into account the Parties' requirements to meet their respective statutory obligations, standards set by government and other organisational and service delivery standards set by the Parties. Apart from those functions delegated by virtue of the Scheme, the Parties retain their distinct statutory responsibilities and therefore also retain their formal decision-making roles.

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4.5 The delegation of functions from the Parties to the IJB shall not affect the legality of any contract made between either of the Parties and any third party, which relates to the delivery of integrated or non-integrated services. The IJB shall be mindful of the Parties' contracts and will enter into a joint commissioning strategy with the Parties.

4.6 Some Integrated Services may be hosted by the IJB on behalf of other integration authorities, or some integrated services may be hosted by another integration authority on behalf of the IJB. The IJB will consider and agree the hosting arrangements.

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## APPENDIX 1

### 5. Local Operational Delivery Arrangements

5.1 The local operational arrangements agreed by the Parties are:

5.2 The following responsibilities of the membership of the IJB in relation to monitoring and reporting on the delivery of Integrated Services on behalf of the Parties are as follows:-

5.2.1 The IJB is responsible for the planning of Integrated Services and achieves this through the Strategic Plan. It issues Directions to the Parties to deliver services in accordance with the Strategic Plan.

5.2.2 The IJB will continue to monitor the performance of the delivery of Integrated services using the Strategic Plan on an ongoing basis and the Parties will report to the IJB regularly on performance in implementation of Directions to enable it to do so.

5.2.3 The IJB is required to publish an annual performance report on performance to deliver the Outcomes and will share this with the Parties.

5.3 The IJB will have operational oversight of Integrated Services, including those that it hosts but not the health services listed in Annex 4. NHS Grampian already has in place an existing mechanism for the scrutiny and monitoring of delivery of these services. Appropriate links will be made between this structure and any governance framework to be put in place by the IJB in terms of paragraph 5.6 below.

5.4 The IJB will take decisions in respect of Integrated Services for which it has operational oversight.

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## APPENDIX 1

5.5 The IJB shall ensure that resources are managed appropriately for the delivery of Integrated Services for which it has operational oversight, in implementation of the Strategic Plan.

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5.6 The Parties expect the IJB to develop a governance framework to provide itself with a mechanism for assurance and monitoring of the management and delivery of Integrated Services. This will enable scrutiny of performance and appropriate use of resources. If required, the Parties will support the IJB in the development of this framework.

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5.7 The IJB will, through the Chief Officer, have an appropriate role in the operational delivery of services by the Parties in the carrying out of integration functions. The Parties acknowledge that the Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved. The duties of the Chief Officer are set out in section 10 of the Scheme, but for the avoidance of doubt, the Chief Officer's role in operational delivery shall not displace:

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(a) the responsibilities of each Party regarding compliance with Directions issued by the IJB; or

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(b) the principle that each Party's governance arrangements must allow that Party to manage risks relating to service delivery.

5.8 For Integrated Services that the IJB does not have operational oversight of, the IJB shall be responsible for the strategic planning of those services. The IJB shall monitor performance of those services in terms of Outcomes delivered by comparison against the Strategic Plan.

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5.9 NHS Grampian and the Council will be responsible for the operational delivery of Integrated Services in implementation of Directions of the IJB. The Parties shall provide such information as may be required by the Chief Officer, the IJB

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## APPENDIX 1

and the Strategic Planning and Commissioning Group to enable the planning, monitoring and delivery of integrated services.

5.10 NHS Grampian will provide such information as may be reasonably required by the Chief Officer or the IJB in respect of the delivery of Integrated Services provided within hospitals that the IJB does not have operational oversight of.

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5.11 NHS Grampian and the IJB will work together to ensure that the planning and delivery of integrated (and non-integrated) hospital services are consistent.

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## APPENDIX 1

### 6. Corporate Support Services

6.1 The Parties recognise that the IJB requires various corporate support services in order to fully discharge its duties under the Act.

6.2 In preparation for integration, a Transitional Leadership Group was set up by the Parties as a vehicle for joint working, and this was provided with corporate support by the Parties through joint “workstream groups”. This allowed appropriate advice and support to be given on areas such as finance, legal, human resources, information sharing etc.

6.3 The Parties shall identify, and may review, the corporate resources required for the IJB for the period since April 2015, including the provision of any professional, technical, or administrative services for the purpose of preparing a Strategic Plan and carrying out integration functions. This assessment will be informed by the support provided via the “workstream groups” referred to in paragraph 6.2 above and shall be made available to the IJB.

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6.4 From April 2015, the Parties shall be responsible for ensuring that the IJB has provision of suitable resources for corporate support to allow it to fully discharge its duties under the Act.

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6.5 The Parties and the IJB shall reach an agreement in respect of how these services will be provided to the IJB which will set out the details of the provision.

The Parties shall identify and keep under regular review suitable resources for corporate support for the IJB to allow it to fully discharge its duties under the act. These resources shall be considered as part of the IJB’s annual budget setting and review process. Corporate support resources shall include appropriate advice and support to be given on areas such as finance, legal, human resources, information and Information and communication technologies.

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## APPENDIX 1

### 7. Support for Strategic Planning

- 7.1 The Parties shall share    with such other relevant integration authorities, the necessary activity and financial data for services, facilities or resources that relate to the planned use of services provided in the Moray area by those integration authorities for people who live within Moray.
- 7.2 The Strategic Plan is written for the residents of Moray. A number of individuals may be resident in the area of one integration authority but receive services in the area of another integration authority. NHS Grampian will provide support to enable the appropriate planning of such services for these individuals. This shall be done in pursuance of the duty prescribed by s30(3) of the Act.
- 7.3 The Parties shall consult with the IJB on any plans to change service provision of non-integrated services which may have a resultant impact on the Strategic Plan.

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## APPENDIX 1

### 8. Targets and Performance Measurement

8.1 The Parties will identify a core set of indicators that relate exclusively to delegated functions, which the Parties expect the IJB to take account of as it discharges its functions. These indicators will be informed by the National Core Suite of Indicators published by the Scottish Government that are [aligned with the overarching 9 National Health & Wellbeing Outcomes](#). The indicators will also support service improvement at a local level as a means of supporting continuous improvement.

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8.2 The core set of indicators will be collated in a [Performance Management Plan](#) and will provide information on the data gathering and reporting requirements to support continuous improvement and, where appropriate, will identify service improvement targets.

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8.3 The [Performance Management Plan](#) will also be used to identify any indicators or measures that relate to functions of the Parties, which are not delegated to the IJB, but which may be affected by the performance and funding of delegated functions, and which are to be taken account of by the IJB.

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8.4 The [Performance Management Plan](#) will also be used to prepare a list of indicators that relate to [both functions of the Parties and functions delegated to the IJB](#), and for which responsibility for achieving targets will be shared between the IJB and relevant Party and which are to be taken account of by the IJB.

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8.5 The [Performance Management Plan](#) will be reviewed regularly to ensure the improvement indicators it contains continue to be relevant and reflective of the national and local Outcomes to which they are aligned.

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8.6 The [Performance Management Plan](#) will state where the responsibility for each indicator lies, whether in full, in part or shared and where shared, the Parties and the IJB will work together to deliver these.

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## APPENDIX 1

8.7 The Parties recognise that the IJB will have an impact on key decisions regarding Outcomes for the people of Moray.

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8.8 The Strategic Planning and Commissioning Group's work shall enable the IJB to assure itself around the monitoring and performance of the delivery of Integrated Services in accordance with the Strategic Plan. A set of shared principles for targets, measures and indicators will be developed and agreed by the Parties and the IJB. This will take into account the Scottish Government's guidance on the Outcomes and the associated core suite of indicators for integration.

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8.9 The contents of the Performance Management Plan also reflect the cultural shift towards embedding a personal outcomes approach to the delivery of services. Personal outcomes data along with data relating to the suite of indicators will also be referred to as part of an Annual Performance Report.

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8.10 All work required in relation to developing the Performance Management Plan will be completed by the time the IJB assumes responsibility for Integrated Services.

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8.11 The Parties will share all performance information, targets, indicators and the Performance Management Plan with the IJB.

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## 9. Clinical and Professional Governance

### 9.1 Outcomes

9.1.1 The IJB will improve and provide assurance on the Outcomes through its clinical and professional governance arrangements. The Outcomes are as follows:

- People are able to look after and improve their own health and wellbeing and live in good health for longer.
- People, including those with disabilities or long-term conditions or who are frail are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.
- People who use health and social care services have positive experiences of those services, and have their dignity respected.
- Health and social care services are centred on helping to maintain or improve the quality of life of people who use those services.
- Health and social care services contribute to reducing health inequalities.
- People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.
- People using health and social care services are safe from harm.
- People who work in health and social care services feel engaged with the work they do and are supported to continuously improve the information, support, care and treatment they provide.
- Resources are used effectively and efficiently in the provision of health and social care services.

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9.1.2 The Parties and the IJB will have regard to the integration planning and delivery principles and will determine the clinical and professional governance assurances and information required by the IJB to inform the development, monitoring and delivery of its Strategic Plan. The Parties will provide that assurance and information to the IJB.

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## APPENDIX 1

### 9.2 General Clinical and Professional Governance Arrangements

9.2.1 The Parties and the IJB are accountable for ensuring appropriate clinical and professional governance arrangements for their duties under the Act.

9.2.2 The Parties remain responsible for the clinical and professional governance of the services which the IJB has instructed the Parties to deliver.

9.2.3 The Parties remain responsible for the assurance of the quality and safety of services commissioned from the third and independent sectors in line with the requirements set out in the Strategic Plan.

9.2.4 The IJB will have regard to healthcare and social care governance quality aims and risks when developing and agreeing its Strategic Plan and its corresponding Directions to the Parties. These risks may be identified by either of the Parties or the IJB and may include professional risks.

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9.2.5 The Parties and the IJB will establish an agreed approach to measuring and reporting to the IJB on the quality of service delivery, organisational and individual care risks, the promotion of continuous improvement and ensuring that all professional and clinical standards, legislation and guidance are met. This will be set out in a report to the IJB for it to approve.

### 9.3 Clinical and Professional Governance Framework

9.3.1 NHS Grampian seeks assurance in the area of clinical governance, quality improvement and clinical risk from the NHS Grampian Clinical Governance Committee, through a process of constructive challenge.

[The NHS Grampian Clinical Governance Committee](#) is responsible for demonstrating compliance with statutory requirements in relation to

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## APPENDIX 1

clinical governance, authorising an accurate and honest annual clinical governance statement and responding to scrutiny and improvement reports by external bodies such as Healthcare Improvement Scotland (or any successor). To achieve this, the Committee oversees a governance framework including a strategy, annual work programme, infrastructure of governance groups and an annual report.

- 9.3.2 The Council is required by law to appoint a Chief Social Work Officer to oversee and make decisions in relation to specified social work services, some of which are delegated in relation to integration functions, and to report to and alert the Council and elected members of any matters of professional concern in the management and delivery of those functions. He or she has a duty to make an annual report to the Council in relation to the discharge of the role and responsibilities. The Chief Social Work Officer will be a non-voting member of the IJB. If required, he or she shall make an annual report to the IJB in relation to the aspects of his or her position which relate to the delivery of integrated functions. The Chief Social Work Officer will retain all of the statutory decision-making and advisory powers given by statute and guidance, and the Medical Director and Executive, Director, of Nursing and Midwifery shall not be entitled to countermand or over-rule any decisions or instructions given by the Chief Social Work Officer in carrying out that statutory role.

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- 9.3.3 External scrutiny is provided by the Care Inspectorate (Social Care and Social Work Improvement Scotland) (or any successor), which regulates, inspects and supports improvement of adult social work and social care.

- 9.3.4 The Scottish Government's *Clinical and Care Governance Framework for Integrated Health and Social Care Services in Scotland, 2014* (or any updated version or replacement) outlines the proposed roles, responsibilities and actions that will be required to ensure governance arrangements in support of the Act's integration planning and delivery principles and the required focus on improved Outcomes.

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## APPENDIX 1

### 9.4 Staff Governance

9.4.1 The Parties will ensure that staff working in [Integrated Services](#) have the right training and education required to deliver professional standards of care and meet any professional regulatory requirements.

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9.4.2 The IJB and the Parties shall ensure that staff will be supported if they raise concerns relating to practice that endangers the safety of service users and other wrong doing in line with local policies and regulatory requirements.

9.4.3 Staff employed by NHS Grampian are bound to follow the NHS Staff Governance Standard. This [standard](#) is recognised as being very laudable and the IJB will encourage it to be adopted for all staff involved in the delivery of delegated services. The Staff Governance Standard requires all [Health Boards](#) to demonstrate that staff are:

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- Well informed;
- Appropriately trained and developed;
- Involved in decisions which affect them;
- Treated fairly and consistently, with dignity and respect, in an environment where diversity is valued; and
- Provided with a continuously improving and safe working environment, promoting the health and wellbeing of staff, patients, and the wider community.

9.4.4 The Standard places a reciprocal duty on staff to:

- Keep themselves up to date with developments relevant to their job within the organisation;
- Commit to continuous personal and professional development;
- Adhere to the standards set by their regulatory bodies;

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## APPENDIX 1

- Actively participate in discussions on issues that affect them either directly or via their trade union/professional organisation;
- Treat all staff and patients with dignity and respect while valuing diversity; and
- Ensure that their actions maintain and promote the health, safety and wellbeing of all staff, patients, carers and those with lived experience.

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### 9.5 Interaction with the IJB, Strategic Planning Commissioning Group and Localities

9.5.1 The IJB has established a Clinical and Care Governance Committee to oversee the clinical and professional governance arrangements for Integrated Services. The Clinical and Care Governance Committee brings together senior professionals representative of the range of professional groups involved in delivering health and social care services. This includes at least one lead from each of the Parties, senior professional staff, the Chief Social Work Officer and Executive Director of Nursing and Midwifery.

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9.5.2 The three professional advisors of the IJB listed at 9.5.5 b)-d) are members of the Clinical and Care Governance Committee. These advisors will continue to report to the Medical Director and Executive Director of Nursing and Midwifery.

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9.5.3 The role, remit and membership of the IJB Clinical and Care Governance Committee is set out in the IJB's Scheme of Administration, which may be reviewed and amended by the IJB.

9.5.4 The Clinical and Care Governance Committee will provide clinical health care and professional social work advice to the IJB, the Strategic Planning and Commissioning Group, the Chief Officer and any professional groups established in localities as and when required. This

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## APPENDIX 1

can be done through the Chair of the Committee (or such other appropriate members) informing and advising the IJB, the Strategic Planning Group, the Chief Officer and any other Group, Committee or locality of the IJB as and when required.

9.5.5 The IJB and the Chief Officer shall also be able to obtain clinical and professional advice from the IJB non-voting membership, which shall include (subject to any amendment of the IJB Order):

- a) The Chief Social Work Officer;
- b) A registered medical practitioner whose name is included in the list of primary medical services performers prepared by NHS Grampian in accordance with Regulations made under section 17P of the National Health Service (Scotland) Act 1978;
- c) A registered nurse who is employed by NHS Grampian, or by a person or body with which the Health Board has entered into a general medical services contract; and
- d) A registered medical practitioner employed by NHS Grampian and not providing primary medical services.

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9.5.6 The Clinical and Care Governance Committee will be represented on the established clinical and professional forums/groups of both the Council and NHS Grampian to address matters of risk, safety, and quality. The Clinical and Care Governance Committee is aligned with both Parties arrangements.

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9.5.7 . A Schematic showing the Clinical and Care Governance Committee's relationship to the NHS Grampian Clinical Governance Committee and the health board is set out in a separate document.

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9.5.7. The Chief Social Work Officer is a member of the Clinical and Care Governance Committee. The Chief Social Work Officer may report to the Council to provide any necessary assurance as required.

9.5.8 The NHS Grampian Area Clinical Forum (and clinical advisory structure), Managed Clinical and Care Networks, Local Medical Committees, other appropriate professional groups, and the Adult and Child Protection

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## APPENDIX 1

Groups and Committees will be available to provide clinical and professional advice to the IJB.

### 9.6 Professional Leadership

9.6.1 The Act does not change the professional regulatory framework within which health and social care professionals work, or the established professional accountabilities that are currently in place within the NHS and local government. The Act through drawing together the planning and delivery of services aims to better support the delivery of improved outcomes for the individuals who receive care and support across health and social care.

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9.6.2 Medical Directors and Executive Directors of Nursing and Midwifery are ministerial appointments made through health boards to oversee systems of professional and clinical governance within NHS Grampian. Their professional responsibilities supersede their responsibilities to their employer. These Directors continue to hold responsibility for the actions of NHS Grampian clinical staff who deliver care through Integrated Services. They, in turn, continue to attend the NHS Grampian Clinical Governance Committee which oversees the clinical governance arrangements of all services delivered by health care staff employed by NHS Grampian.

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9.6.3 In addition to the IJB's Clinical and Care Governance Committee, advice can be provided to the IJB and the Strategic Planning and Commissioning Group through the Clinical Executive Directors of NHS Grampian and the Chief Social Work Officer of the Council on professional / workforce, clinical / care and social care / social work governance matters relating to the development, delivery, and monitoring of the Strategic Plan, including the development of integrated service arrangements. The professional leads of the Parties can provide advice and raise issues directly with the IJB either in writing or through

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## APPENDIX 1

the representatives that sit on the IJB. The IJB will respond in writing to these issues where asked to do so by the Parties.

9.6.4 The key principles for professional leadership are as follows:

- Job descriptions will reflect the level of professional responsibility at all levels of the workforce explicitly.
- The IJB will name the Clinical Lead and ensure representation of professional representation and assurance from both health and social care. The Executive Director of Nursing and Midwifery and Medical Director will continue to have professional managerial responsibility.
- All service development and redesign will outline participation of professional leadership from the outset, and this will be evidenced in all IJB papers.
- The effectiveness of the professional leadership principles will be reviewed annually.

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### 10. Chief Officer

10.1 The IJB shall appoint a Chief Officer in accordance with section 10 of the Act. The arrangements in relation to the Chief Officer agreed by the Parties are:

10.2 An interim Chief Officer may be appointed at the request of the IJB by arrangements made jointly by the Chief Executives of both Parties in consultation with the Chair of the IJB.

10.3 The Chief Officer will be responsible for the operational management of Integrated Services, other than the health services listed in Annex 4 or the services hosted by another integration authority. Further arrangements in relation to the Chief Officer's responsibilities for operational management and strategic planning are set out in a separate document, which the IJB may amend from time to time.

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10.4 The Chief Officer shall be accountable to the IJB for the management of Integrated Services for which the IJB has operational oversight. Accountability of the Chief Officer will be ensured by the IJB through appropriate scrutiny and monitoring of the delivery of integrated services under the Chief Officer's management, if necessary, through an appropriate governance framework that the IJB may put in place.

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10.5 The Chief Officer will be responsible for the development and monitoring of operational plans which set out the mechanism for the delivery of the Strategic Plan.

10.6 The Chief Executive of NHS Grampian will be the Accountable Officer for the delivery of the acute services that the IJB has strategic planning responsibility for and will provide updates to the Chief Officer on the operational delivery of those services provided and the set aside budget on a regular basis.

10.7 The Chief Officer will have a formal relationship with service portfolio leads across Grampian, this includes those leading the delivery of acute services and fellow Chief Officers across the Grampian system, to determine that appropriate progress is made on the delivery of the Strategic Plan and to influence the development of wider system plans which may impact on the Moray population. Currently, the Chief Officer line manages the Hospital General Manager and leadership team of Dr Gray's Hospital and will develop a combined performance and assurance reporting approach in accordance with the Chief Officer's remit as a member of the NHSG Grampian Chief Executive Team. This remains subject to final approval of the NHS portfolio approach.

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10.8 The Chief Officer will be a member of the appropriate senior management teams of NHS Grampian and the Council. This will enable the Chief Officer to work with senior management of both Parties to carry out the functions of the IJB in accordance with the Strategic Plan.

10.9 The Chief Officer will be line managed by the Chief Executives of the Parties. The Chief Officer shall also report to the IJB.

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## APPENDIX 1

10.10 The Chief Officer will develop close working relationships with elected members of the Council and non-executive and executive NHS Grampian board members.

10.11 The Chief Officer will establish and maintain effective working relationships with a range of key stakeholders across NHS Grampian, the Council, the third and independent sectors, service users, carers and those with lived experience, the Scottish Government, trade unions and relevant professional organisations.

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10.12 The Chief Officer will work with trade unions, staff side representatives and professional organisations to ensure a consistent approach to their continued involvement in the integration of health and social care.

### 11. Workforce

11.1 The arrangements in relation to their respective workforces agreed by the Parties are:

11.2 The employment status of staff will not change as a result of the Scheme i.e. staff will continue to be employed by their current employer and retain their current terms and conditions of employment and pension status.

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11.3 The Parties will develop an Integrated Workforce Plan that will be aligned to objectives set by the IJB. The Integrated Workforce Plan will relate to the development and support to be provided to the workforce who are employed in pursuance of Integrated Services and functions. The plan will cover staff communication, staff engagement, staff and team development, leadership development and the training needs for staff that will be responsible for managing integrated teams.

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11.4 The process of developing integrated teams will be initiated during the first year of the IJB, building on preparatory work initiated in 2014.

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## APPENDIX 1

11.5 The Organisational Development strategy for the Parties and the IJB will be informed by Employee Engagement processes being followed as part of the Integrated Workforce Plan. This will encourage the development of a healthy organisational culture. The Parties and the IJB will work together in developing this plan along with stakeholders.

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11.6 These plans will be presented to the IJB for approval in a three year cycle and will be reviewed regularly through an agreed process to ensure that it takes account of the development needs of staff.

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## 12. Finance

### 12.1 Financial Governance

12.1.1 The IJB will have no cash transactions and will not directly engage or provide grants to third parties.

12.1.2 The IJB will have appropriate assurance arrangements in place (detailed in the Strategic Plan) to ensure best practice principles are followed by the Parties for the commissioned services.

12.1.3 The IJB will be responsible for establishing adequate and proportionate internal audit service for review of the arrangements for risk management, governance and control of the delegated resources. The IJB will accordingly appoint an Internal Auditor to report to the Chief Officer and IJB on the proposed annual audit plan, ongoing delivery of the plan, the outcome of each review and an annual report on delivery of the plan.

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12.1.4 The Accounts Commission will confirm the external auditors for the IJB.

12.1.5 Further details of financial governance and Financial Regulations are contained in a separate document out with the Scheme.

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## APPENDIX 1

### 12.2 Payments to the IJB – General

- 12.2.1 The payment made by each Party is not an actual cash transaction for the IJB. There will be a requirement for an actual cash transfer to be made between the Parties to reflect the difference between the payment being made by a Party and the resources delegated by the IJB to that Party to deliver services. Any cash transfer will take place between the Parties monthly in arrears based on the annual budgets set by the Parties and the directions from the IJB. A final transfer will be made at the end of the financial year on closure of the annual accounts of the IJB to reflect in-year budget adjustments agreed.
- 12.2.2 Resource Transfer – The existing resource transfer arrangements will cease upon establishment of the IJB and instead NHS Grampian will include the equivalent sum in its budget allocation to the IJB. The Council payment to the IJB will accordingly be reduced to reflect this adjustment.
- 12.2.3 Value Added Tax (VAT) – the budget allocations made will reflect the respective VAT status and treatments of the Parties. In general terms budget allocations by the Council will be made net of tax to reflect its status as a Section 33 body in terms of the Value Added Tax Act 1994 and those made by NHS Grampian will be made gross of tax to reflect its status as a Section 41 body in terms of the Value Added Tax Act 1994.

### 12.3 Payments to the IJB

- 12.3.1 The payment that will be determined by each Party requires to be agreed in advance of the start of the financial year. Each Party agrees that the baseline payment to the IJB for delegated functions will be formally advised to the IJB and the other Party by 28<sup>th</sup> February each year.
- 12.3.2 The Chief Officer and the Chief Finance Officer of the IJB will develop a case for the Integrated Budget based on the Strategic Plan and present it to the Council and NHS Grampian for consideration as part of the

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## APPENDIX 1

annual budget setting process, in accordance with the timescales contained therein. The case should be evidence based with full transparency on its assumptions and analysis of changes, covering factors such as activity changes, cost inflation, efficiencies, legal requirements, transfers to / from the “set aside” budget for hospital services and equity of resource allocation.

- 12.3.3 The final payment into the IJB will be agreed by the Parties in accordance with their own processes for budget setting.
- 12.3.4 The IJB will approve and provide direction to the Parties by 31<sup>st</sup> March each year regarding the functions that are being directed, how they are to be delivered and the resources to be used in delivery.

### 12.4 Method for determining the amount set aside for hospital services

- 12.4.1 The IJB will be responsible for strategic planning, in partnership with the hospital sector, of those hospital services most commonly associated with the emergency care pathway.
- 12.4.2 The IJB and the hospital sector will agree a method for establishing the amount to be set aside for services that are delivered in a large hospital as part of the emergency care pathway which will show consumption by the residents of the IJB.
- 12.4.3 The method of establishing the set aside budget will take account of hospital activity data and cost information. Hospital activity data will reflect actual occupied bed day and admissions information, together with any planned changes in activity and case mix.

### 12.5 Financial Management of the IJB

- 12.5.1 The Council will host the financial transactions specific to the IJB.

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## APPENDIX 1

12.5.2 The IJB will appoint a Chief Finance Officer who will be accountable for the annual accounts preparation (including gaining the assurances required for the governance statement) and financial planning (including the financial section of the Strategic Plan) and will provide financial advice and support to the Chief Officer and the IJB. The Chief Finance Officer will also be responsible for the production of the annual financial statement [\(in accordance with section 39 of the Act\)](#).

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12.5.3 As part of the process of preparing the annual accounts of the IJB the Chief Finance Officer of the IJB will be responsible for agreeing balances between the IJB and Parties at the end of the financial year and for agreeing details of transactions between the IJB and Parties during the financial year. The Chief Finance Officer of the IJB will also be responsible for provision of other information required by the Parties to complete their annual accounts including Group Accounts.

12.5.4 Recording of all financial information in respect of the [Integrated Services](#) will be in the financial ledger of the Party which is delivering the services on behalf of the IJB.

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12.5.5 The Parties will provide the required financial administration to enable the transactions for delegated functions (e.g. payment of suppliers, payment of staff, raising of invoices etc.) to be administered and financial reports to be provided to the Chief Finance Officer of the IJB. The Parties will not charge the IJB for this service.

### 12.6 Financial reporting to the IJB and the Chief Officer

12.6.1 Financial reports for the IJB will be prepared by the Chief Finance Officer of the IJB. The format and frequency of the reports to be agreed by the IJB, the Council and NHS Grampian, but will be at least on a quarterly basis. The Director of Finance of NHS Grampian and the Section 95 Officer of the Council will work with the Chief Finance Officer of the IJB

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## APPENDIX 1

to ensure that the information that is required to produce such reports can be provided.

12.6.2 To assist with the above the Parties will provide information to the Chief Finance Officer of the IJB regarding costs incurred by them on a monthly basis for services directly managed by the IJB. Similarly, NHS Grampian will provide the IJB with information on use of the amounts set aside for hospital services. This information will focus on patient activity levels and not include unit costs; the frequency will be agreed with the IJB, but will be at least quarterly.

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12.6.3 The Chief Finance Officer of the IJB will agree a timetable for the preparation of the annual accounts with the Director of Finance of NHS Grampian and the Section 95 Officer of the Council. The timetable for production of the annual accounts of the IJB will be set following the issue of further guidance from the Scottish Government.

12.6.4 In order to give assurance to the Parties that the delegated budgets are being used for their intended purposes, financial monitoring reports will be produced for the Parties in accordance with timetables to be agreed at the start of each financial year. The format of such reports to be agreed by the Director of Finance of NHS Grampian and the Section 95 Officer of the Council, in conjunction with the Chief Finance Officer of the IJB.

### 12.7 The process for addressing in year variations in the spending of the IJB

#### 12.7.1 Increases in payment by Parties to the IJB

12.7.1.1 The Parties may increase in-year the payments to the IJB for the delegated services with the agreement of the IJB.

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## APPENDIX 1

### 12.7.2 Reductions in payment by Parties to the IJB

12.7.2.1 The Parties do not expect to reduce the payment to the IJB in-year unless there are exceptional circumstances resulting in significant unplanned costs for the Party. In such exceptional circumstances the following escalation process would be followed before any reduction to the in-year payment to the IJB was agreed:-

a) The Party would seek to manage the unplanned costs within its own resources, including the application of reserves where applicable;

b) Each Party would need to approve any decision to seek to reduce the in-year payment to the IJB;

c) Any final decision would need to be agreed by the Chief Executives of both Parties and by the Chief Officer of the IJB, and be ratified by the Parties and the IJB.

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### 12.7.3 Variations to the planned payments by the IJB

12.7.3.1 The Chief Officer is expected to deliver the agreed Outcomes within the total delegated resources of the IJB. Where a forecast overspend against an element of the operational budget emerges during the financial year, in the first instance it is expected that the Chief Officer, in conjunction with the Chief Finance Officer of the IJB, will agree corrective action with the IJB.

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12.7.3.2 If this does not resolve the overspending issue then the Chief Officer, the Chief Finance Officer of the IJB and the Director of Finance of NHS Grampian and the Section 95 Officer of the Council must agree a recovery plan to balance the overspending budget.

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## APPENDIX 1

### 12.7.4 IJB Overspend against payments

12.7.4.1 In the event that the recovery plan is unsuccessful and an overspend is evident at the year-end, uncommitted reserves held by the IJB, in line with the reserves policy, would firstly be used to address any overspend.

12.7.4.2 In the event that an overspend is evident following the application of reserves, the following arrangements will apply for addressing that overspend:-

12.7.4.3 In the first complete financial year of the IJB – the overspend will be met by the Party to which the spending direction for service delivery is given i.e. the Party with operational responsibility for the service.

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12.7.4.4 In future years of the IJB, either:

a) A single Party may make an additional one-off payment to the IJB,

or

b) The Parties may jointly make additional one off payments to the IJB in order to meet the overspend. The split of one off payments between Parties in this circumstance will be based on each Party's proportionate share of the baseline payment to the IJB, regardless of in which arm of the operational budget the overspend has occurred in.

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12.7.4.5 The recovery plan may include provision for the Parties to recover any such additional one-off payments from their baseline payment to the IJB in the next financial year.

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12.7.4.6 The arrangement to be adopted will be agreed by the Parties.

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## APPENDIX 1

### 12.7.5 IJB underspend against payments

- 12.7.5.1 In the event of a forecast underspend the IJB will require to decide whether this results in a redetermination of payment or whether surplus funds will contribute to the IJB's reserves.
- 12.7.5.2 The Chief Officer and Chief Finance Officer of the IJB will prepare a reserves policy for the IJB, which requires the approval of the IJB and the Director of Finance of NHS Grampian and the Section 95 Officer of the Council. The reserves policy will be reviewed on a periodic basis.
- 12.7.5.3 In the event of a return of funds to the Parties, the split of returned payments between Parties will be based on each Party's proportionate share of the baseline payment to the IJB, regardless of which arm of the operational budget the underspend occurred in.

### 12.7.6 Planned Changes in Large Hospital Services

- 12.7.6.1 The IJB and the hospital sector will agree a methodology for the financial consequences of planned changes in capacity for set aside budgets in large hospital services.
- 12.7.6.2 Planned changes in capacity for large hospital services will be outlined in the IJB Strategic Plan. A financial plan (reflecting any planned capacity changes) will be developed and agreed that sets out the capacity and resource levels required for the set aside budget for the IJB and the hospital sector, for each year. The financial plan will take account of :-
- activity changes based on demographic change;
  - agreed activity changes from new interventions;
  - cost behaviour;
  - hospital efficiency and productivity targets; [and](#)

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## APPENDIX 1

- an agreed schedule for timing of additional resource / resource released.

12.7.6.3 The process for making adjustments to the set aside resource to reflect variances in performance against plan will be agreed by the IJB and **NHS Grampian**. Changes will not be made in year and any changes will be made by annual adjustments to the Strategic Plan of the IJB.

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### 12.8 Capital

#### 12.8.1 The use of capital assets in relation to integration functions

12.8.1.1 Ownership of capital assets will continue to sit with each Party and capital assets are not part of the payment or “set aside”.

12.8.1.2 If the IJB decides to fund a new capital asset from revenue funds, then ownership of the resulting asset shall be determined by the Parties.

12.8.1.3 The Strategic Plan will drive the financial strategy and will provide the basis for the IJB to present proposals to the Parties to influence capital budgets and prioritisation.

12.8.1.4 A business case with a clear position on funding is required for any change to the use of existing assets or proposed use of new assets. The Chief Officer of the IJB is to develop business cases for capital investment for consideration by NHS Grampian and the Council as part of their respective capital planning processes.

12.8.1.5 The Chief Officer of the IJB will liaise with the relevant officer within each Party in respect of day-to-day asset related matters including any consolidation or relocation of operational teams.

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## APPENDIX 1

12.8.1.6 It is anticipated that the Strategic Plan will outline medium term changes in the level of budget allocations for assets used by the IJB that will be acceptable to the Parties.

12.8.1.7 Any profits or loss on sale of an asset will be held by the Parties and not allocated to the IJB.

12.8.1.8 Depreciation budgets for assets used on delegated functions will continue to be held by each Party and not allocated to the IJB operations in scope.

12.8.1.9 The management of all other associated running costs (e.g. maintenance, insurance, repairs, rates, utilities) will be subject to local agreement between the Parties and the IJB.

### 13. Participation and Engagement

13.1 A comprehensive joint consultation on the December 2015 Scheme took place with further comprehensive joint consultations taking place in respect of the 2018 reviewed Scheme and 2021 revised Scheme.

**Deleted:** between November 2014 and February 2015. Consultation on this revised Scheme took place in January 2018.

13.2 Media notifications were issued for the public and a newsletter for staff alerting them to the proposed revisions to the Scheme.  
An email address was supplied for people to send their views.

13.3 The consultation draft revised Scheme was presented to NHS Grampian and elected members of the Council each time the Scheme was revised.

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13.4 Principles endorsed by the Scottish Health Council and the National Standards for Community Engagement were followed in respect of each consultation process, which included the following:

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13.4.1 It was a genuine consultation exercise: the views of all participants were valued.

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## APPENDIX 1

13.4.2 It was transparent: the results of the consultation exercise were published;

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13.4.3 It was an accessible consultation: the consultation documentation was provided in a variety of formats;

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13.4.4 It was being led by the Chief Officer: the Chief Officer and the IJB will be answerable to the people of Moray in terms of the content of the revised Scheme;

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13.4.5 It is an on-going dialogue: the revised Scheme will establish the parameters of the future strategic plans of the IJB.

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13.5 The stakeholders consulted in the development of this revised Scheme were:

Health professionals;

Users of health care;

Carers of users of health care;

Commercial providers of health care;

Non-commercial providers of health care;

Social care professionals;

Users of social care;

Carers of users of social care;

Commercial providers of social care;

Non-commercial providers of social care;

Staff of NHS Grampian and the Council who are not health professionals or social care professionals;

Non-commercial providers of social housing; [and](#)

Third sector bodies carrying out activities related to health or social care and;

Other local authorities operating with the area of NHS Grampian preparing an integration scheme.

13.6 The Parties enabled the IJB to develop a Communications and Engagement Strategy by providing appropriate resources and support. The Communications and Engagement Strategy ensures significant engagement with, and participation by, members of the public, representative groups and other organisations in relation to decisions about the carrying out of integration

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## APPENDIX 1

functions. The Parties will encourage the IJB to access existing forums that the Parties have established, such as Public Partnership Forums, Community Councils, groups and other networks and stakeholder groups with an interest in health and social care.

### 14. Information Sharing and Confidentiality

14.1 The Parties shall agree to an appropriate information sharing accord and procedures for the sharing of information in relation to Integrated Services. These shall set out the principles, policies, procedures and management strategies around which information sharing is carried out. They will encapsulate national and legal requirements.

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14.2 The Parties will work together to progress the specific arrangements, practical policies and procedures, designated responsibilities and any additional requirements for any purpose connected with the preparation of an integration scheme, the preparation of a strategic plan or the carrying out of integration functions.

14.3 The Parties shall be assisted in this process by a Joint Information Sharing Group. This group reviewed the existing Memorandum of Understanding and Information Sharing Protocol to see whether these were suitable for the purposes of integration, or whether replacements, modifications or supplements were considered necessary. The Group reported that the existing Memorandum of Understanding was sufficient.

14.4 If the Joint Information Sharing Group consider that a further high-level accord or information sharing protocol is required, or if amendments are necessary to existing ones, they shall assist the Parties and the IJB by preparing these and making them available with their recommendation to the IJB in the first instance for comment.

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## APPENDIX 1

14.5 The information sharing accord and procedures may be amended or replaced by agreement of the Parties and the IJB. Regard will be taken of the [NHS Information Governance Toolkit](#) template when revising or replacing these.

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14.6 The Parties will continue to develop information technology systems and procedures to enable information to be shared appropriately and effectively between the Parties and the IJB.

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APPENDIX 1

15. Complaints

- 15.1 The Parties agree the following arrangements in respect of complaints:
- 15.2 Complaints should continue to be made to the Council and NHS Grampian using the existing mechanisms.
- 15.3 Complaints can be made to the Parties through any member of staff providing Integrated Services. Complaints can be made in person, by telephone, by email, or in writing. On completion of the complaints procedure, complainants may ask for a review of the outcome. At the end of the complaints process, complainants are entitled to take their complaint to the Scottish Public Services Ombudsman (or any such successor). Where appropriate, complainants will also be advised of their right to complain to the Care Inspectorate.
- 15.4 The Parties shall communicate with each other in relation to any complaint which requires investigation or input from the other organisation. This shall ensure that complaints procedures operate smoothly and in an integrated and efficient manner for the benefit of the complainant.
- 15.5 The Chief Officer will have an overview of complaints made about integrated services and subsequent responses. Complaints about Integrated Services will be recorded and reported to the Chief Officer on a regular and agreed basis.
- 15.6 Complaints will be used as a valuable tool for improving services and to identify areas where further staff training may be of benefit.
- 15.7 The Parties will ensure that all staff working in the provision of Integrated Services are familiar with the complaints procedures and that they can direct individuals to the appropriate complaints procedures.

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## APPENDIX 1

15.8 The complaints procedures will be clearly explained, well-publicised, accessible, will allow for timely recourse and will sign-post independent advocacy services.

15.9 The Parties will aspire to have a streamlined and integrated process for complaints and will work to ensure that any future arrangements for complaints are clear and integrated from the perspective of the complainant. When this is achieved, the Scheme will be amended using the procedure required by the Act.

15.10 In developing a streamlined and integrated process for complaints, the Parties shall ensure that all statutory requirements will continue to be met, including timescales for responding to complaints.

15.11 In developing a single complaints process, the Parties will endeavour to develop a uniform way to review unresolved complaints before signalling individuals to the appropriate statutory review authority.

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## APPENDIX 1

### 16. Claims Handling, Liability & Indemnity

- 16.1 The Parties and the IJB recognise that they could receive a claim arising from or which relates to the work undertaken on behalf of the IJB.
- 16.2 The Parties agree to ensure that any such claims are progressed quickly and in a manner which is equitable between them.
- 16.3 So far as reasonably practicable the normal common law and statutory rules relating to liability will apply.
- 16.4 Each party will assume responsibility for progressing and determining any claim which relates to any act or omission on the part of one of their employees.
- 16.5 Each party will assume responsibility for progressing and determining any claim which relates to any heritable property which is owned by them. If there are any heritable properties owned jointly by the Parties, further arrangements for liability will be agreed upon in consultation with insurers.
- 16.6 In the event of any claim against the IJB or in respect of which it is not clear which party should assume responsibility then the Chief Officer (or his/her representative) will liaise with the Chief Executives of the Parties (or their representatives) and determine which party should assume responsibility for progressing the claim.
- 16.7 If a claim is settled by either party, but it subsequently transpires that liability rested with the other party, then that party shall indemnify the party which settled the claim.
- 16.8 Claims regarding policy and/or strategic decisions made by the IJB shall be the responsibility of the IJB. The IJB may require to engage independent legal advice for such claims.

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## APPENDIX 1

- 16.9 If a claim has a “cross boundary” element whereby it relates to another integration authority area, the Chief Officers of the integration authorities concerned shall liaise with each other until an agreement is reached as to how the claim should be progressed and determined.
- 16.10 The IJB will develop a procedure for claims relating to hosted services with the other relevant integration authorities. Such claims may follow a different procedure than as set out above.
- 16.11 Claims which pre-date the establishment of the IJB will be dealt with by the Parties through the procedures used by them prior to integration.

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17. Risk Management

17.1 A shared risk management strategy is in place, which includes risk monitoring and a reporting process for the Parties and the IJB. This will be updated as needed and particularly when [the Scheme](#) is revised and any additional functions delegated so that it is updated by the time such functions are delegated to the IJB. In developing this shared risk management strategy, the Parties reviewed the shared risk management arrangements in operation, including the Parties [own Risk Registers](#).

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17.2 There will be shared risk management across the Parties and the IJB for significant risks that impact on integrated service provision. The Parties and the IJB will consider these risks as a matter of course and notify each other where the risks may have changed.

17.3 The Parties will provide the IJB with support, guidance, and advice through their respective Risk Managers, to enable the IJB to maintain an ongoing fit for purpose risk management strategy to ensure that the risk management of the IJB is delivered to a high standard.

17.4 Any changes to the risk management strategy shall be requested through formal paper to the IJB.

17.5 A single Risk Register has been developed for the IJB. The process used in developing a single Risk Register was to involve members of the IJB establishing a risk framework by identifying risks to the development of the Strategic Plan. This risk [framework in](#) turn was used by operational units of [Integrated Services](#) and each unit was required to contribute towards the Risk Register by identifying relevant risks and mitigation of those risks.

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17.6 The single Risk Register will continue to be developed alongside the Strategic Plan, and will be modified as necessary in line with the development of the Strategic Plan.

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## APPENDIX 1

### 18. Dispute resolution mechanism

18.1 This provision relates to disputes between NHS Grampian and the Council in respect of the IJB or their duties under the Act. This provision does not apply to internal disputes within the IJB.

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18.2 Where either of the Parties fails to agree with the other on any issue related to the Scheme and/or the delivery of integrated health and social care services, then they will follow the process as set out below:

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- (a) The Chief Executives of NHS Grampian and the Council and the Chief Officer of the IJB will meet to resolve the issue;
- (b) If unresolved, NHS Grampian and the Council and the IJB will each prepare a written note of their position on the issue and exchange it with the others within 21 calendar days of the meeting in (a);
- (c) Within 14 calendar days of the exchange of written notes in (b) the Chief Executives and Chief Officer must meet to discuss the written positions.
- (d) In the event that the issue remains unresolved, the Chief Executives and the Chief Officer will proceed to mediation with a view to resolving the issue. The Chief Officer will appoint a professional independent mediator. The cost of mediation, if any, will be split equally between the Parties. The mediation process will commence within 28 calendar days of the meeting in (c);
- (e) Where the issue remains unresolved after following the processes outlined in (a)-(d) above and if mediation does not allow an agreement to be reached within 6 months from its commencement, or any other such time as the parties may agree, either party may notify Scottish Ministers that agreement cannot be reached;
- (f) Where the Scottish Ministers make a determination on the dispute, that determination shall be final and the Parties and the IJB shall be bound by the determination.

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## APPENDIX 1

### Annex 1

#### Part 1

##### Functions delegated by NHS Grampian to the Integration Joint Board

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The functions which are to be delegated by NHS Grampian to the Integration Joint Board are set out in this Part 1 of Annex 1 and are subject to the exceptions and restrictions specified or referred to. The services to which these functions relate are set out in Part 2 of this Annex 1.

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Functions prescribed for the purposes of section 1(8) of the Act

*Column A*

*Column B*

#### The National Health Service (Scotland) Act 1978

All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978

Except functions conferred by or by virtue of—

section 2(7) (Health Boards);

section 2CB<sup>(1)</sup> (Functions of Health Boards outside Scotland);

section 9 (local consultative committees);

section 17A (NHS Contracts);

section 17C (personal medical or dental services);

section 17I<sup>(2)</sup> (use of accommodation);

(1) Section 2CA was inserted by S.S.I. 2010/283, regulation 3(2).

(2) Section 17I was inserted by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4. The functions of the Scottish Ministers under section 17I are conferred on Health Boards by virtue of S.I. 1991/570, as amended by S.S.I. 2006/132.

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## APPENDIX 1

section 17J (Health Boards' power to enter into general medical services contracts);

section 28A (remuneration for Part II services);

section 38<sup>(3)</sup> (care of mothers and young children);

section 38A<sup>(4)</sup> (breastfeeding);

section 39<sup>(5)</sup> (medical and dental inspection, supervision and treatment of pupils and young persons);

section 48 (provision of residential and practice accommodation);

section 55<sup>(6)</sup> (hospital accommodation on part payment);

section 57 (accommodation and services for private patients);

section 64 (permission for use of facilities in private practice);

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<sup>(3)</sup> The functions of the Secretary of State under section 38 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(4)</sup> Section 38A was inserted by the Breastfeeding etc (Scotland) Act 2005 (asp 1), section 4. The functions of the Scottish Ministers under section 38A are conferred on Health Boards by virtue of S.I. 1991/570 as amended by S.S.I. 2006/132.

<sup>(5)</sup> Section 39 was relevantly amended by the Self Governing Schools etc (Scotland) Act 1989 (c.39) Schedule 11; the Health and Medicines Act 1988 (c.49) section 10 and Schedule 3 and the Standards in Scotland's Schools Act 2000 (asp 6), schedule 3.

<sup>(6)</sup> Section 55 was amended by the Health and Medicines Act 1988 (c.49), section 7(9) and Schedule 3 and the National Health Service and Community Care Act 1990 (c.19), Schedule 9. The functions of the Secretary of State under section 55 are conferred on Health Boards by virtue of S.I. 1991/570.

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## APPENDIX 1

section 75A<sup>(7)</sup> (remission and repayment of charges and payment of travelling expenses);

section 75B<sup>(8)</sup> (reimbursement of the cost of services provided in another EEA state);

section 75BA <sup>(9)</sup> (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);

section 79 (purchase of land and moveable property);

section 82<sup>(10)</sup> (use and administration of certain endowments and other property held by Health Boards);

section 83<sup>(11)</sup> (power of Health Boards and local health councils to hold property on trust);

section 84A<sup>(12)</sup> (power to raise money, etc., by appeals, collections etc.);

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<sup>(7)</sup> Section 75A was inserted by the Social Security Act 1988 (c.7), section 14, and relevantly amended by S.S.I. 2010/283. The functions of the Scottish Ministers in respect of the payment of expenses under section 75A are conferred on Health Boards by S.S.I. 1991/570.

<sup>(8)</sup> Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.

<sup>(9)</sup> Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).

<sup>(10)</sup> Section 82 was amended by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 7) section 1(2) and the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 2.

<sup>(11)</sup> There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.

<sup>(12)</sup> Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2). There are no amendments to section 84A which are relevant to the exercise of a Health Board's functions.

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## APPENDIX 1

section 86 (accounts of Health Boards and the Agency);

section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);

section 98 <sup>(13)</sup> (charges in respect of non-residents); and

paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 <sup>(14)</sup>;

The Health Boards (Membership and Procedure) (Scotland) Regulations 2001/302;

The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000/54;

The National Health Services (Primary Medical Services Performers Lists) (Scotland) Regulations 2004/114;

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<sup>(13)</sup> Section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7. The functions of the Secretary of State under section 98 in respect of the making, recovering, determination and calculation of charges in accordance with regulations made under that section is conferred on Health Boards by virtue of S.S.I. 1991/570.

<sup>(14)</sup> S.I. 1989/364, as amended by S.I. 1992/411; S.I. 1994/1770; S.S.I. 2004/369; S.S.I. 2005/455; S.S.I. 2005/572 S.S.I. 2006/141; S.S.I. 2008/290; S.S.I. 2011/25 and S.S.I. 2013/177.

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## APPENDIX 1

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;

The National Health Service (Discipline Committees) Regulations 2006/330;

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006/135;

The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009/183;

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and

The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(15)</sup>.

### **Disabled Persons (Services, Consultation and Representation) Act 1986**

#### Section 7

(Persons discharged from hospital)

### **Community Care and Health (Scotland) Act 2002**

All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.

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<sup>(15)</sup> S.S.I. 2011/55, to which there are amendments not relevant to the exercise of a Health Board's functions.

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## APPENDIX 1

### Mental Health (Care and Treatment) (Scotland) Act 2003

All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.

Except functions conferred by—

section 22 (Approved medical practitioners);  
section 34 (Inquiries under section 33: co-operation)<sup>(16)</sup>;

section 38 (Duties on hospital managers: examination notification etc.)<sup>(17)</sup>;

section 46 (Hospital managers' duties: notification)<sup>(18)</sup>;

section 124 (Transfer to other hospital);

section 228 (Request for assessment of needs: duty on local authorities and Health Boards);

section 230 (Appointment of a patient's responsible medical officer);

section 260 (Provision of information to patients);

section 264 (Detention in conditions of excessive security: state hospitals);

section 267 (Orders under sections 264 to 266: recall);

<sup>(16)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(17)</sup> Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards under that Act.

<sup>(18)</sup> Section 46 is amended by S.S.I. 2005/465.

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## APPENDIX 1

section 281<sup>(19)</sup> (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(20)</sup>;

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(21)</sup>;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(22)</sup>; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(23)</sup>.

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<sup>(19)</sup> Section 281 is amended by S.S.I. 2011/211.

<sup>(20)</sup> S.S.I. 2005/464, to which there are amendments not relevant to the exercise of the functions of a Health Board. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(21)</sup> S.S.I. 2005/467. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(22)</sup> S.S.I. 2005/468. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

<sup>(23)</sup> S.S.I. 2008/356. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of “managers” relevant to the functions of Health Boards.

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## APPENDIX 1

### Education (Additional Support for Learning) (Scotland) Act 2004

#### Section 23

(other agencies etc. to help in  
exercise of functions under this Act)

### Public Services Reform (Scotland) Act 2010

All functions of Health Boards  
conferred by, or by virtue of, the  
Public Services Reform (Scotland)  
Act 2010

Except functions conferred by—

section 31(Public functions: duties to  
provide information on certain  
expenditure etc.); and

section 32 (Public functions: duty to  
provide information on exercise of  
functions).

### Patient Rights (Scotland) Act 2011

All functions of Health Boards  
conferred by, or by virtue of, the  
Patient Rights (Scotland) Act 2011

Except functions conferred by The  
Patient Rights (Complaints Procedure  
and Consequential Provisions)  
(Scotland) Regulations 2012/36<sup>(24)</sup>.

### Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(6) of the Public Bodies (Joint Working) (Scotland) Act 2014

*Column A*

*Column B*

### Carers (Scotland) Act 2016

#### Section 31<sup>(25)</sup>

(Duty to prepare local carer strategy)

<sup>(24)</sup> S.S.I. 2012/36. Section 5(2) of the Patient Rights (Scotland) Act 2011 (asp 5) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.

<sup>(25)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2017/381 (Scottish SI) reg. 2 (December 18, 2017)

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## APPENDIX 1

### Part 2

Services currently provided by **NHS Grampian** which are to be delegated

Deleted: the Health Board

#### A

#### Interpretation of this Part 2 of Annex 1

1. In this part—

“Allied Health Professional” means a person registered as an allied health professional with the Health Professions Council;

“general medical practitioner” means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978;

“hospital” has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978;

“inpatient hospital services” means any health care service provided to a patient who has been admitted to a hospital and is required to remain in that hospital overnight, but does not include any secure forensic mental health services;

“out of hours period” has the same meaning as in regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(26)</sup>; and

“the public dental service” means services provided by dentists and dental staff employed by a health board under the public dental service contract.

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<sup>(26)</sup> S.S.I. 2004/115.

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## APPENDIX 1

### B

#### **Provision for people over the age of 18**

*The functions listed in Part 1 of this Annex 1 are delegated only to the extent that:*

- a) the function is exercisable in relation to persons of at least 18 years of age;*
- b) the function is exercisable in relation to care or treatment provided by health professionals for the purpose of health care services listed at numbers 2 to 7 below; and*
- c) the function is exercisable in relation to the following health services:*

2. Accident and Emergency services provided in a hospital.
3. Inpatient hospital services relating to the following branches of medicine—
  - (a) general medicine;
  - (b) geriatric medicine;
  - (c) rehabilitation medicine;
  - (d) respiratory medicine; and
  - (e) psychiatry of learning disability.
4. Palliative care services provided in a hospital.
5. Inpatient hospital services provided by General Medical Practitioners.
6. Services provided in a hospital in relation to an addiction or dependence on any substance.
7. Mental health services provided in a hospital, except secure forensic mental health services.
8. District nursing services.

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## APPENDIX 1

9. Services provided outwith a hospital in relation to an addiction or dependence on any substance.
10. Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
11. The public dental service.
12. Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(27)</sup>.
13. General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(28)</sup>.
14. Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(29)</sup>.
15. Pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(30)</sup>.

<sup>(27)</sup> Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2) and relevantly amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, and the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 37.

<sup>(28)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(29)</sup> Section 17AA was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 31(2) and relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 25. Section 26 was relevantly amended by the Health and Social Security Act 1984 (c.48), Schedule 1, and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) section 13.

<sup>(30)</sup> Section 27 was relevantly amended by the Health Services Act 1990 (c.53), section 20; the National Health Service and Community Care Act 1990 (c.19), Schedule 9; the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28),

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## APPENDIX 1

16. Services providing primary medical services to patients during the out-of-hours period.
17. Services provided outwith a hospital in relation to geriatric medicine.
18. Palliative care services provided outwith a hospital.
19. Community learning disability services.
20. Mental health services provided outwith a hospital.
21. Continence services provided outwith a hospital.
22. Kidney dialysis services provided outwith a hospital.
23. Services provided by health professionals that aim to promote public health.
24. Sexual health services provided in the community.

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section 3; the National Health Service and Community Care Act 1997 (c.46), Schedule 2 and the Health and Social Care Act 2001 (c.15), section 44.

## C

## Provision for people under the age of 18

*The functions listed in Part 1 of Annex 1 are also delegated to the extent that:*

- a) the function is exercisable in relation to persons of less than 18 years of age; and*
- b) the function is exercisable in relation to the following health services:*

- 25. The public dental service.
- 26. Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(31)</sup>.
- 27. General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(32)</sup>.
- 28. Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(33)</sup>.
- 29. Pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(34)</sup>.

<sup>(31)</sup> Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2) and relevantly amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, and the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 37.

<sup>(32)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(33)</sup> Section 17AA was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 31(2) and relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 25. Section 26 was relevantly amended by the Health and Social Security Act 1984 (c.48), Schedule 1, and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) section 13.

<sup>(34)</sup> Section 27 was relevantly amended by the Health Services Act 1990 (c.53), section 20; the National Health Service and Community Care Act 1990 (c.19), Schedule 9; the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28), section 3; the National Health Service and Community Care Act 1997 (c.46), Schedule 2 and the Health and Social Care Act 2001 (c.15), section 44.

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## APPENDIX 1

### Part 3

Services currently provided by NHS Grampian to those under 18 years of age, which are to be operationally devolved to the Chief Officer of the Integration Joint Board.

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30. Health Visiting

31. School Nursing

32. All services provided by Allied Health Professionals, as defined in Part 2A of this Annex 1, in an outpatient department, clinic, or outwith a hospital.

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## Annex 2

## Part 1

## Functions delegated by the Local Authority to the Integration Joint Board

The functions which are to be delegated by the Local Authority to the Integration Joint Board are set out in this Part 1 of Annex 2 and are subject to the exceptions and restrictions specified or referred to. The services to which these functions relate are set out in Part 2 of this Annex 2.

Functions prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>National Assistance Act 1948<sup>(35)</sup></b>	

## Section 48

(Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)

**The Disabled Persons (Employment) Act 1958<sup>(36)</sup>**

## Section 3

(Provision of sheltered employment by local authorities)

<sup>(35)</sup> 1948 c.29; section 48 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 39, paragraph 31(4) and the Adult Support and Protection (Scotland) Act 2007 (asp 10) schedule 2 paragraph 1.

<sup>(36)</sup> 1958 c.33; section 3 was amended by the Local Government Act 1972 (c.70), section 195(6); the Local Government (Scotland) Act 1973 (c.65), Schedule 27; the National Health Service (Scotland) Act 1978 (c.70), schedule 23; the Local Government Act 1985 (c.51), Schedule 17; the Local Government (Wales) Act 1994 (c.19), Schedules 10 and 18; the Local Government etc. (Scotland) Act 1994 (c.49), Schedule 13; and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1.

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## APPENDIX 1

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>The Social Work (Scotland) Act 1968<sup>(37)</sup></b>	
Section 1 (Local authorities for the administration of the Act.)	So far as it is exercisable in relation to another integration function.
Section 4 (Provisions relating to performance of functions by local authorities.)	So far as it is exercisable in relation to another integration function.

<sup>(37)</sup> 1968 c.49; section 1 was relevantly amended by the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Children Act 1989 (c.41), Schedule 15; the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), schedule 10; S.S.I. 2005/486 and S.S.I. 2013/211. Section 4 was amended by the 1990 Act, Schedule 9, the Children (Scotland) Act 1995 (c.36) ("the 1995 Act"), schedule 4; the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) ("the 2003 Act"), schedule 4; and S.S.I. 2013/211. Section 10 was relevantly amended by the Children Act 1975 (c.72), Schedule 2; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13; the Regulation of Care (Scotland) Act 2001 (asp 8) ("the 2001 Act") schedule 3; S.S.I. 2010/21 and S.S.I. 2011/211. Section 12 was relevantly amended by the 1990 Act, section 66 and Schedule 9; the 1995 Act, Schedule 4; and the Immigration and Asylum Act 1999 (c.33), section 120(2). Section 12A was inserted by the 1990 Act, section 55, and amended by the Carers (Recognition and Services) Act 1995 (c.12), section 2(3) and the Community Care and Health (Scotland) Act 2002 (asp 5) ("the 2002 Act"), sections 8 and 9(1). Section 12AZA was inserted by the Social Care (Self Directed Support) (Scotland) Act 2013 (asp 1), section 17. Section 12AA and 12AB were inserted by the 2002 Act, section 9(2). Section 13 was amended by the Community Care (Direct Payments) Act 1996 (c.30), section 5. Section 13ZA was inserted by the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 64. Section 13A was inserted by the 1990 Act, section 56 and amended by the Immigration and Asylum Act 1999 (c.33), section 102(2); the 2001 Act, section 72 and schedule 3; the 2002 Act, schedule 2 and by S.S.I. 2011/211. Section 13B was inserted by the 1990 Act sections 56 and 67(2) and amended by the Immigration and Asylum Act 1999 (c.33), section 120(3). Section 14 was amended by the Health Services and Public Health Act 1968 (c.46), sections 13, 44 and 45; the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Guardianship Act 1973 (c.29), section 11(5); the Health and Social Service and Social Security Adjudications Act 1983 (c.41), schedule 10 and the 1990 Act, schedule 9. Section 28 was amended by the Social Security Act 1986 (c.50), Schedule 11 and the 1995 Act, schedule 4. Section 29 was amended by the 1995 Act, schedule 4. Section 59 was amended by the 1990 Act, schedule 9; the 2001 Act, section 72(c); the 2003 Act, section 25(4) and schedule 4 and by S.S.I. 2013/211.

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 8 (Research.)	So far as it is exercisable in relation to another integration function.
Section 10 (Financial and other assistance to voluntary organisations etc. for social work.)	So far as it is exercisable in relation to another integration function.
Section 12 (General social welfare services of local authorities.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 12A (Duty of local authorities to assess needs.)	So far as it is exercisable in relation to another integration function.
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
Section 13 (Power of local authorities to assist persons in need in disposal of produce of their work.)	
Section 13ZA (Provision of services to incapable adults.)	So far as it is exercisable in relation to another integration function.
Section 13A (Residential accommodation with nursing.)	
Section 13B (Provision of care or aftercare.)	

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 14 (Home help and laundry facilities.)	
Section 28 (Burial or cremation of the dead.)	So far as it is exercisable in relation to persons cared for or assisted under another integration function.
Section 29 (Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals.)	
Section 59 (Provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision.)	So far as it is exercisable in relation to another integration function.

### **The Local Government and Planning (Scotland) Act 1982<sup>(38)</sup>**

Section 24(1)  
(The provision of gardening assistance for the disabled and the elderly.)

### **Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(39)</sup>**

<sup>(38)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<sup>(39)</sup> 1986 c.33. There are amendments to sections 2 and 7 which are not relevant to the exercise of a local authority's functions under those sections.

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 2 (Rights of authorised representatives of disabled persons.)	
Section 3 (Assessment by local authorities of needs of disabled persons.)	
Section 7 (Persons discharged from hospital.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.
Section 8 (Duty of local authority to take into account abilities of carer.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.

### **The Adults with Incapacity (Scotland) Act 2000<sup>(40)</sup>**

Section 10  
(Functions of local authorities.)

Section 12  
(Investigations.)

<sup>(40)</sup> 2000 asp 4; section 12 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 5(1). Section 37 was amended by S.S.I. 2005/465. Section 39 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and by S.S.I. 2013/137. Section 41 was amended by S.S.I. 2005/465; the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and S.S.I. 2013/137. Section 45 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3.

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 37 (Residents whose affairs may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 39 (Matters which may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 41 (Duties and functions of managers of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions.
Section 42 (Authorisation of named manager to withdraw from resident's account.)	Only in relation to residents of establishments which are managed under integration functions.
Section 43 (Statement of resident's affairs.)	Only in relation to residents of establishments which are managed under integration functions.
Section 44 (Resident ceasing to be resident of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions.
Section 45 (Appeal, revocation etc.)	Only in relation to residents of establishments which are managed under integration functions.

### **The Housing (Scotland) Act 2001<sup>(41)</sup>**

Section 92 (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
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### **The Community Care and Health (Scotland) Act 2002<sup>(42)</sup>**

<sup>(41)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.  
<sup>(42)</sup> 2002 asp 5.

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 5 (Local authority arrangements for of residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
<b>The Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(43)</sup></b>	
Section 17 (Duties of Scottish Ministers, local authorities and others as respects Commission.)	
Section 25 (Care and support services etc.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 26 (Services designed to promote well-being and social development.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 27 (Assistance with travel.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 33 (Duty to inquire.)	

<sup>(43)</sup> 2003 asp 13; section 17 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 111(4), and schedules 14 and 17, and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 25 was amended by S.S.I. 2011/211. Section 34 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17.

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 34 (Inquiries under section 33: Co-operation.)	
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	

### **The Housing (Scotland) Act 2006<sup>(44)</sup>**

Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
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### **The Adult Support and Protection (Scotland) Act 2007<sup>(45)</sup>**

Section 4  
(Council's duty to make inquiries.)

Section 5  
(Co-operation.)

Section 6  
(Duty to consider importance of providing advocacy and other.)

Section 7  
(Visits)

<sup>(44)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

<sup>(45)</sup> 2007 asp 10; section 5 and section 42 were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17 and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 43 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 14.

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## APPENDIX 1

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 8 (Interviews)	
Section 9 (Medical Examinations)	
Section 10 (Examination of records etc)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	
Section 16 (Moving adult at risk in pursuance of removal order)	
Section 18 (Protection of moved persons' property.)	
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	

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## APPENDIX 1

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>Social Care (Self-directed Support) (Scotland) Act 2013<sup>(46)</sup></b>	
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013.
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	

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<sup>(46)</sup> 2013 asp 1.

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## APPENDIX 1

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>Carers (Scotland) Act 2016<sup>(47)</sup></b>	
Section 6 <sup>(48)</sup> (Duty to prepare of adult carer support plan)	
Section 21 <sup>(49)</sup> (Setting of local eligibility criteria.)	
Section 24 <sup>(50)</sup> (Duty to provide support)	
Section 25 <sup>(51)</sup> (Provision of support to carers: breaks from caring)	
Section 31 <sup>(52)</sup> (Duty to prepare local carer strategy)	
Section 34 <sup>(53)</sup> (Information and advice service for carers)	
Section 35 <sup>(54)</sup> (Short breaks services statements)	

<sup>(47)</sup> Section 21 was inserted into the Schedule of the Public Bodies (Joint Working) (Scotland) Act 2014 by paragraph 6 of the schedule of the Carers (Scotland) Act 2016 (asp 9).

<sup>(48)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg. 3(2) (December 13th 2017)

<sup>(49)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment Regulations 2017/190 (Scottish SI) reg. 2(2) (June 16 2017).

<sup>(50)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg. 3(2) (December 13th 2017)

<sup>(51)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg. 3(2) (December 13th 2017)

<sup>(52)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg. 3(2) (December 13th 2017)

<sup>(53)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg. 3(2) (December 13th 2017)

<sup>(54)</sup> Inserted by Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Amendment (No. 2) Regulations 2017/449 (Scottish SI) reg. 3(2) (December 13th 2017)

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APPENDIX 1

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>

**The Community Care and Health (Scotland) Act 2002**

Section 4<sup>(55)</sup>  
The functions conferred by  
Regulation 2 of the Community Care  
(Additional Payments) (Scotland)  
Regulations 2002<sup>(56)</sup>

<sup>(55)</sup> Section 4 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 4 and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 62(3).  
<sup>(56)</sup> S.S.I. 2002/265, as amended by S.S.I. 2005/445.

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Part 2

**Services currently provided by the Local Authority which are to be integrated**

*The functions listed in Part 1 of this Annex 2 are delegated only to the extent that:*

*a) the function is exercisable in relation to persons of at least 18 years of age; and*

*b) the function is exercisable in relation to the following services:*

- Social work services for adults and older people
- Services and support for adults with physical disabilities and learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Community care assessment teams
- Support services
- Care home services
- Adult placement services
- Health improvement services
- Aspects of housing support, including aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare

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## APPENDIX 1

### Annex 3

#### Hosted Services

NHS Grampian has noted the services that are currently hosted across the areas of the Grampian IJBs and offer this for consideration to the IJB as they take forward strategic planning:

Service	Current Host
Sexual Health Services	Aberdeen City
Woodend Assessment of the Elderly (including Links Unit at City Hospital)	Aberdeen City
Woodend Rehabilitation Services (including Stroke Rehab, Neuro Rehab, Horizons, Craig Court and MARS)	Aberdeen City
Marie Curie Nursing	Aberdeenshire
Heart Failure Service	Aberdeenshire
Continence Service	Aberdeenshire
Diabetes MCN (including Retinal Screening)	Aberdeenshire
Chronic Oedema Service	Aberdeenshire
HMP Grampian	Aberdeenshire
Police Forensic Examiners	Aberdeenshire

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#### Annex 4

This Annex lists the services provided within hospitals which the IJB will have strategic planning responsibilities for which will continue to be operationally managed by NHS Grampian:

##### Services:

- Accident & Emergency Services provided in a hospital;
- Inpatient hospital services relating to: general medicine, geriatric medicine, rehabilitation medicine, respiratory medicine and psychiatry of learning disability; and
- Palliative Care services provided in a hospital.

##### In so far as they are provided within the following hospitals:

- Hospitals at the Foresterhill Site, Aberdeen (which includes Aberdeen Royal Infirmary, Royal Aberdeen Childrens Hospital and Aberdeen Maternity Hospital)
- Hospitals in Elgin (which includes Dr Gray's Hospital)

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**REPORT TO: MEETING OF MORAY COUNCIL ON 10 NOVEMBER 2021**

**SUBJECT: POLICY FOR CONTRIBUTING TO THE COST OF ADULT SOCIAL CARE AND SUPPORT**

**BY: CHIEF SOCIAL WORK OFFICER – HEALTH AND SOCIAL CARE MORAY**

### **1. REASON FOR REPORT**

- 1.1 The purpose of this report is to recommend the Council consider and adopt the updated Health and Social Care Moray (HSCM) Contributions Policy in relation to charges applying to non-residential social care services

### **2. RECOMMENDATION**

- 2.1 **It is recommended that Council agrees to adopt as policy the draft HSCM Contributions Policy as attached at APPENDIX 1**

### **3. BACKGROUND**

- 3.1. Section 87 of the Social Work (Scotland) Act 1968 permits a local authority providing social care services under that Act or under other defined legislation to recover such charges as they consider reasonable. Charges for relevant residential accommodation are regulated by the National Assistance Act 1948.
- 3.2. Given the above, a local authority has a degree of discretion in the way it charges for non-residential social care services. Scottish Government Guidance has been issued to local authorities to assist them in determining charging policies. In addition, and since 2002, COSLA has regularly produced and updated a National Strategy and Guidance in relation to Charges Applying to Non-residential Social Care Services as referred to below.
- 3.3. This policy update takes into account more recent legislative changes affecting HSCM's power to seek or not seek a financial contribution towards the cost of providing an individual with eligible needs with non-residential care and support. For example, the [Carers \(Scotland\) Act 2016](#) (not charging unpaid carers for eligible support) and [The Community Care \(Personal Care and Nursing Care\) \(Scotland\) Amendment \(No. 2\) Regulations 2018](#) (extending free personal care to all eligible adults irrespective of age).
- 3.4. The HSCM Contributions Policy implements and underpins locally the strategy and guidance referred to within the Cosla National Strategy and Guidance on Charges Applying to Social Care Support for People at Home 2021/22 available

at: <https://www.cosla.gov.uk/about-cosla/our-teams/health-and-social-care/social-care-charging-information>.

#### **4. KEY MATTERS RELEVANT TO RECOMMENDATION**

- 4.1. The policy update removes, for the sake of clarity, flat-rate charges (these are additional to the service user's contribution to their individual budget under Self-Directed Support (SDS)) from the Contributions Policy itself, although the flat-rate charges themselves remain in place outside of this policy. The flat-rate charges (i.e. maintenance of stair lifts etc.) have been removed from the terms of the Policy because they are not part of the contributions calculation/financial assessment under SDS. The Council agreed the Charges for 2021/22 at its meeting on 18 February 2021. With regard to flat-rate charges, the policy update advises caution when introducing any additional flat-rate charges or increasing the existing flat-rate charges, because it is only the assessed contribution towards the individual budget under SDS that is mindful of the service user's charging threshold/minimum income guarantee. This holds particular relevance for the principles of the CoSLA Guidance and maximising independent living and economic participation in the community for the service user.
- 4.2. The policy update also reflects recommendations by HSCM, in line with the discretion afforded by the CoSLA Guidance, relating to the Contributions Policy. For example, at what percentage of the service user's available income (subject to a financial assessment of the service user's income and capital) to set the Taper. Any Taper of less than 100% of available income means the service user keeps some additional income above their charging threshold/minimum income guarantee (which supports the principles of the guidance including the Contributions Policy being human rights compatible, ensuring dignity, supporting independent living and maximising economic participation in the community for the service user). The 2021/22 Taper percentage will remain at 70% of the Service User's available income.
- 4.3. This update also takes into account the non-financial (in terms of income from contributions) changes to the administration of the contributions, individual budget and direct payments (Option 1 of SDS) processes – to provide for increased efficiency for HSCM and increased clarity for service users (i.e. changing back to a weekly individual budget from an annual individual budget for service users – therefore ending the confusing (for the service user) process whereby a service user whose support ends during the annual cycle of their individual budget, having to contribute to their support after the support has actually ended. Further administrative changes are highlighted in the updated policy such as; paying HSCM's contribution to the service user's individual budget net of the service user's contribution (consistent with guidance) and introduction of prepayment cards for some service users with a direct payment (option 1 of SDS).
- 4.4. If the Council agrees to adopt the updated policy, this will be reviewed regularly through the SDS Steering Group to ensure that it remains consistent with legislative requirements, national developments and local policy. In addition, these documents will be made available to the public on the Moray Council's and the Health and Social Care Moray's websites

- 4.5. S87 of the Social Work (Scotland) Act 1968 contains the power to charge for services and accommodation and is not a power that can be transferred to the IJB. That means decisions as to what charges are set is one for the Council alone.. The same section also makes provisions about contributions and also falls within the sole remit of the Council.

## **5 OTHER KEY MATTERS RELEVANT TO THE RECOMMENDATION**

- 5.1 The review of the policy has included input from the Chief Social Work Officer, Senior Management Team, Community Care Finance Team and Self-directed Support Team. At all times striking a balance between the principles of the guidance and ensuring HSCM raises enough income to maintain provision of quality support to all eligible individuals.
- 5.2 The policy describes the role of the Charging Appeals Panel, which deals with appeals relating to the financial assessment and service users assessed contributions. For example, dealing with requests/appeals for additional service user income to be disregarded from a financial assessment (the service user retains additional amounts of their weekly income) to help with additional costs related to a disability (disability-related expenditure, examples are contained in the CoSLA Guidance).
- 5.3 The guidance for both Self-directed Support and Charging/Contributions provide discretion for HSCM to make the administrative efficiency changes described here and in the updated Policy without compromising the principles of the guidance or the operation of the charging/contributions, direct payments and SDS processes.

## **6. SUMMARY OF IMPLICATIONS**

**a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP)) and Moray Integration Joint Board Strategic Commissioning Plan 2019 – 2029**

The levying of charges for social care services is an essential component of delivering priorities on a sustainable basis.

**b) Policy and Legal**

Since 2002, COSLA has regularly produced and updated a National Strategy and Guidance in relation to Charges Applying to Non-residential Social Care Services. A copy of the guidance can be found here:-

CoSLA National Strategy & Guidance – [Charges Applying to Social Care Support at Home](#)

The Policy update also takes into account of the following guidance and legislation:

[Section 87](#) of the Social Work (Scotland) Act 1968 (charges that may be made for services and accommodation)

[The Community Care \(Personal Care and Nursing Care\) \(Scotland\) Amendment \(No. 2\) Regulations 2018](#) (extending free personal care to

all eligible adults irrespective of age) and the linked Free Personal & Nursing Care updated guidance [CCD3/2018](#)

[Carers \(Scotland\) Act 2016](#) (not charging unpaid carers for eligible support) and the linked [guidance](#)

[Social Care \(Self Directed Support\) \(SDS\) \(Scotland\) Act 2013](#) and the linked [SDS Statutory Guidance](#)

**c) Financial implications**

Recent legislative changes (see above re: not charging unpaid carers and the extension of free personal care to under 65's who are eligible) had to be applied without discretion. The latter change in particular meant a reduction in income from contributions.

As described earlier, HSCM (and specifically the Chief Social Work Officer as confirmed in the CoSLA Guidance) has some discretion under the guidance. Particularly relevant to this policy update is the discretion on the percentage of the service user's available income (following financial assessment) that should be required as a contribution towards their individual budget – i.e. the percentage level in setting the Taper. That discretion has been used to keep the Taper at the same level of 70% of the service user's available income (after other income disregards are applied) as a contribution to the cost of their individual budget under Self-directed Support. That means the service user retains 30% of their available income over and above their charging threshold/minimum income guarantee plus a buffer of 25% set out in the guidance. This supports the principles of the CoSLA Guidance and is consistent with the terms of the guidance.

**d) Risk Implications and Mitigation**

None identified, there are no significant financial changes (i.e. to service users contributions) as a result of the updated policy. Most changes are either the slight changes (i.e. annual increase in the service user's charging threshold) referred to in the CoSLA Guidance for 2021/22 or the administrative changes referred to in this report and highlighted in the Policy. These are efficiency changes that should also bring more clarity for service users, particularly, no longer seeking contributions after support has ended.

**e) Staffing Implications**

No direct staffing implications. However, as described in this paper, there are efficiency measures relating to the administration of social care payments by HSCM to the service user (or their authorised representative), contributions, individual budgets and direct payments (option 1 of SDS). All of these administrative changes and efficiency measures have been identified by and supported by both the Self-directed Support Team and Community Care Finance Team. All these measures are in line with national guidance on charging/contributions and Self-directed Support.

**f) Property**

None arising directly from this report.

**g) Equalities/Socio Economic Impact**

An equalities impact assessment has been completed (attached at **APPENDIX 2**). This policy should positively support eligible service users by maintaining a balance between the principles of the guidance (including protection of the service user's minimum income guarantee/charging threshold) and HSCM's requirement to raise income to support/maintain quality services/support, with those principles (and impact on service users) always remaining at the forefront of thinking before any future changes are made.

Socio economic impact: not relevant for this policy – in terms of financial impact on HSCM and impact on eligible service users please note;

- The principles of the guidance, maximising independence and dignity for service users and protecting their minimum income guarantee, balanced against raising income that allows continuation of sustainable/quality services for the eligible local population
- All changes to the Policy are in line with charging/contributions and Self-directed Support guidance (and HSCM's discretion within the boundaries of that guidance).

**h) Consultations**

The Chief Social Work Officer and Head of Adult Social Care Services, the Support Manager within the Community Care Finance Team, the SDS Team Manager, the Commissioning and Performance Officer (author of draft Contributions Policy), the IJB Chief Financial Officer and Tracey Sutherland, Committee Services Officer have been consulted and their comments have been incorporated within this report.

**7. CONCLUSION**

**7.1 It is submitted that adopting the proposed updated policy will bring it in line with recent, relevant legislation, make it more coherent and transparent and provide clarity to service users, their carers and families, care managers and other staff involved in the provision of social care services**

Author of Report: Chief Social Work Officer – Health and Social Care Moray

Background Papers: Held by the Community Care Finance Team and Commissioning and Performance Officer (Policies and Procedures)

Ref: SPMAN-1108985784-673  
SPMAN-1108985784-674 (Appendix 1)  
SPMAN-1108985784-675 (Appendix 2)





## **Health & Social Care Moray**

# **Policy for Contributing to the Cost of Adult Social Care and Support (non- residential) within a Self-Directed Support System**

**Draft**

**2021/22**

## **This document is available in large print format upon request.**

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Agreed by **Moray Council Committee Services** on **XX/XX/2021**  
Review Due **March 2022**

Implementation date: **XX/2021**:

## 1. Introduction

Health & Social Care Moray (HSCM) was required by the Scottish Government to, and did, implement the Social Care (Self-Directed Support) (SDS) (Scotland) Act 2013. More information is available on the [Self-directed Support in Scotland](#) website.

This requires HSCM to provide four SDS options (see section 3 of this Policy), with varying levels of choice and control, to people (service users and/or unpaid carers) with eligible social care and support needs.

To ensure a fair, effective, consistent and transparent system is in place, HSCM moved to a contributions policy (Care & Support charge – see the **COSLA Guidance** on [Charging for Non-Residential Care](#)) with the introduction of the Social Care (Self-directed Support) (Scotland) Act 2013.

Under Self-Directed Support (SDS), individuals (service users and/or unpaid carers) will know up front what money, if any, they are entitled to from Health & Social Care Moray as part of their overall weekly personal (individual) budget, to provide the care and support they are eligible for. The aim of the care and support is to achieve the agreed personal outcomes they have identified as important to them.

They will also know how much they will have to contribute (based on their ability to pay) towards their individual budget for the care and support they choose. This is where the support required can be charged for which is not always the case. For example,

- Support that meets the definition of Free Personal Care will not require a contribution from the service user and,
- Unpaid carers will not be required to contribute towards the cost of the support they are eligible for, in line with the Carers (Scotland) Act 2016.

This policy explains how Health & Social Care Moray considers and calculates the care & support charge (contribution) individuals over the age of 16 years (unless they remain in children's services beyond that age) will be expected to make (if any) to their overall weekly individual budget for care and support (non residential).

All care & support contributions are determined in accordance with the Department for Works and Pensions rates and regulations, legislation and guidance incorporating the Social Care (Self-directed Support (SDS) (Scotland) Act 2013 and **COSLA** National Strategy & Guidance – [Charges Applying to Non-residential Social Care Services 2020/22](#).

## **2. Principles of the policy**

This policy is based on the following principles:

- The provision of a Self-directed Support (SDS) individual budget is based on an assessment of care and support needs by Health & Social Care Moray Social Care staff, in accordance with Health & Social Care Moray [Eligibility Criteria](#).
- Any care & support financial contribution an individual is required to make towards the cost of their weekly individual budget is based on HSCM's financial assessment process
- The financial assessment will include specialist advice and assistance to support individuals to maximise their income through claiming for welfare benefits to which they may be entitled
- The proportion of the financial contribution the individual may be required to make will not be influenced by the size of the care and support package required. It will be based on their ability to pay as per the financial assessment process which

considers their income and capital (as well as various disregards that may apply to that individual's income and/or capital – see Section 7)

- There may be some cases where the service user's contribution to the cost of the weekly individual budget is amended or reduced due to an additional disregard, for example, where they have additional costs i.e. additional costs related to a disability and they are in receipt of a disability benefit. This will be considered on a case-by-case basis.

### 3. Self-Directed Support

Self-Directed Support (SDS) in Scotland (more information via Age Scotland's Factsheets is available [here](#)) empowers people (service users and/or unpaid carers) by ensuring they are at the centre of the process of assessment of their care and support needs and their care and support planning to meet the agreed outcomes they want to achieve.

The objective of SDS is to promote independence, health and wellbeing by giving an individual more choice and control over the support they access to meet their assessed eligible care and support needs and, to achieve the agreed personal outcomes that are important to them.

This includes the use of resources and requires an individual to be aware of the financial value attributed to meeting their agreed personal outcomes – known as an individual budget. An individual budget is an allocation of money (agreed at a Resource Allocation Meeting which considers the individual's care needs/agreed personal outcomes and the support to meet those agreed outcomes) that can be used by an individual to design and purchase support from the public, private or voluntary sector to meet their assessed eligible care and support needs, in line with their personal outcome-based Support Plan or Adult Carers Support Plan (for unpaid carers).

A weekly individual budget might be used by a service user to purchase support, for example, having a bath or getting washed and dressed to continue to live in their own home (this type support is likely to meet the definition of free personal care and SDS individual budgets can be used to meet those support needs/personal outcomes). Out-with the home it could be used to arrange support for an individual in college or to enjoy community based leisure pursuits etc. It could also be used by an unpaid carer to access training or leisure activities etc.

The use of an individual budget is subject to certain restrictions and safeguards as set down by law. It must be used in an appropriate way to meet the individual's assessed, eligible, care and support needs and the agreed, personal outcomes they have identified as important to them.

The weekly individual budget is worked out by Health & Social Care Moray using a Resource Allocation System which provides a transparent process for the allocation of resources. The process links the amount of money in each case to the individuals care and support needs/personal outcomes, taking into account the different levels of support people need to achieve their outcomes. This provides an indication (indicative budget) of what it may reasonably cost to meet the service user's outcomes and may not be the final amount allocated. This is so the individual (with support where appropriate) can start to choose and/or arrange support as soon as possible. The initial indicative budget may be 'moderated' (changed slightly based on the service user's care and support needs and the actual cost of achieving their personal outcomes) to give the agreed individual budget.

There are 4 options available to an individual to choose, arrange and manage their support:

**Option 1** – Health & Social Care Moray making a **direct payment** to the service user for them to choose and arrange their own support to achieve the agreed outcomes in their support plan (help is available with this if it is required by the service user).

**Option 2** - The selection of support by the service user, the making of arrangements for the provision of that support by Health & Social Care Moray on behalf of the service user and, where that support is provided by someone other than Health & Social Care Moray, the payment by Health & Social Care Moray of the relevant amount in respect of the cost of that support.

**Option 3** - The selection of support for the service user by Health & Social Care Moray, the making of arrangements for the provision of that support by Health & Social Care Moray and, where that support is provided by someone other than Health & Social Care Moray, the payment by Health & Social Care Moray of the relevant amount in respect of the support.

**Option 4** - The selection by the service user of a mix of Options 1, 2 and/or 3 for their support and, where the support is provided by someone other than Health & Social Care Moray, the payment by Health & Social Care Moray of the relevant amount in respect of the support.

### **3.1 Key issues relating to Direct Payments (Option 1)**

#### **3.1.1**

##### Direct Payments paid Net of the service user's contribution and Prepayment Cards

In many cases, where the service user is assessed as able to contribute some of their income towards their individual budget, the individual budget amount will be made up of a contribution from the service user and a contribution from HSCM. The contribution from HSCM to the cost of meeting the eligible care and support (the

service user's overall individual budget) is paid as a Direct Payment to the service user if the service user chooses option 1 under Self-directed Support.

HSCM will pay its contribution as a Direct Payment to the service user (so the payment will be Net of the service user's contribution) rather than paying the full amount of the individual budget then asking the service user to pay their contribution to HSCM. This is consistent with CoSLA Charging Guidance and simplifies the administrative process.

Instead of paying their contribution to the individual budget to HSCM, the service user will have a prepayment card (in cases where the Direct Payment is not used to directly employ a Personal Assistant) that they can add their contribution to (see also section 8 of this policy). This will enable them to secure the support they have been assessed as requiring through combining HSCM contribution (the Direct Payment) with their own contribution applied to the prepayment card. As stated in section 8 of this policy, any issues with making payments and with use of the individual budget can be picked up and addressed earlier through reports that can be generated about use of the prepayment cards.

A Gross payment (i.e. the entire individual budget paid by HSCM as a Direct Payment to the service user in lieu of a reimbursement from the service user for their assessed contribution) would only be considered in exceptional circumstances. If a request from a service user to have a Direct Payment paid Gross (rather than Net) is made this would be discussed between the SDS Team and Team/Service Managers for a decision to be made and, to ensure a consistent approach is being taken when considering a request for a Gross payment of the Direct Payment.

### 3.1.2

What if the service user does not make their contribution to the Individual Budget?

If the service user does not make their assessed contribution to their weekly individual budget they will only have the Net payment which was contributed by the Authority. That means that the service user will either not be able to meet all of their agreed, personal outcomes or they will be able to but at a lower cost than their individual budget was first calculated at. In these circumstances there are several possible options which will be discussed with a Team/Service Manager;

- a) Remind the service user of the need to make their assessed contribution from their weekly income (**as per the signed Direct Payments Agreement**) in order to meet all their support needs/agreed, personal outcomes.
- b) Reiterate to the service user the need to pay in their assessed contribution and if not, the Direct Payment could be reduced (following a **review of the support & the Direct Payment by a Social Worker** to ensure the personal outcomes were still being met) by the level of the service user's assessed contribution. This is because the service user may have been able to meet their outcomes with a smaller budget.
- c) Reiterate the need for the assessed contribution to be paid into the account. If the service user continues not to pay this into the account, then they may no longer be able to receive a Direct Payment as they are not adhering to the terms and conditions of the Direct Payment Agreement. Other SDS Options may be offered instead of Option 1 after a social work review of the support.
- d) See also Section 9 of this Policy

### 3.1.3

#### A Cap on HSCM contributions under option 1 – Direct Payments

The purpose of a Direct Payment is to provide choice and control for the service user to meet their agreed personal outcomes and to do so within the resources allocated (through Resource Allocation – applying outcomes to the real cost of meeting these outcomes).



One of the most important elements of the Self-directed Support legislation and guidance is that service users should have more choice over how their care and support is delivered and who provides it. Therefore when HSCM sets the cap on the amount we contribute for care and support, the amount has to ensure that the service user's choice of support/provider is not unduly restricted.

HSCM has benchmarked the hourly rate it pays and at this time is satisfied that the 'agency' rate (i.e. for the service user to employ a private home care provider) it has set ensures maximum choice, in that the service user could secure support from a range of providers at the rate we have set, or less. This rate will continue to be benchmarked against private agency rates.

#### **4. Support out with the individual budget**

There is a range of support which Health & Social Care Moray has a duty to provide for which an individual will not be required to use their individual budget to pay for.

These include:

- Information and advice
- A care needs assessment
- A financial assessment
- Care management (please note: this may be part of the cost of choosing an Individual Service Fund (ISF) Provider under Option 2 of SDS and this cost will be included in the Individual Budget in such cases)
- Criminal Justice Social Work Services.

#### **5. Support which an individual will not be required to contribute towards**

**Unpaid Carers** will not have to contribute towards the cost of support they are eligible for, in line with the [Carers \(Scotland\) Act 2016](#). Unpaid Carers can access support they

are eligible for via Self-directed Support (SDS) and any contribution they are eligible for from HSCM to meet their agreed personal outcomes.

**Service Users** will not be required to pay towards the cost of:

- Personal care/support that meets the definition of Free Personal Care, including support with meal preparation
- Non-personal care at home which is a new or additional service for up to a maximum of 12 weeks (84 days) following discharge from hospital
- Support classed as Education or Training funded through a Self-directed Support Budget

Anyone diagnosed with end stage terminal illness ([DS1500](#) form to have been issued or the eligibility criteria met – see the sections on eligibility specifically Critical and Substantial Care Needs descriptions in Section 7 of the [National Guidance](#)) will not be required to pay towards the cost of:

- End of life care at home.

Anyone receiving treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003 who has a compulsory treatment order in place, will not be required to pay towards the cost of their care and support. More information on the Act and compulsory orders can be viewed on the Mental Welfare Commission website <http://www.mwcscot.org.uk/the-law/mental-health-act/>.

Individuals will not be required to contribute towards the cost of Reablement support they have been assessed as eligible for, including personal and non-personal care at home, for a maximum of 12 weeks (84 days). Reablement sits at tier 2 of the **Moray (Partners in Care) 3 tier policy** for the delivery of health and social care services.

Tier 1 support involves advice, information, prevention and signposting to relevant local support.

Tier 2 support includes [reablement](#) intensive support to help regain or retain skills for independent living and where possible to prevent, reduce or delay longer-term or ongoing care and support needs).

For example;

Mr R had a fall at home and was later discharged from hospital after being assessed as needing support to go back home. It was assessed that he may benefit from Reablement support to help him to regain some skills for independent living. He was provided with this free support for a time-limited period of up to 12 weeks at home. Health and Social Care professionals identified with Mr R the personal outcomes that were important to him and provided support to enable him to achieve these. This included supporting him to carry out his own personal care tasks, support with falls prevention, practical support with shopping/support to make meals and providing him (based on an OT assessment) with some minor disability adaptations to assist with his mobility (he was supported to use these). This achieved the aim of minimising the amount of ongoing care and support he needed and supported him to achieve the personal outcomes he had identified as important (including increasing his ability to carry out tasks himself as well as increasing his confidence and sense of security/safety when carrying out daily living tasks). As part of ongoing assessment Mr R's care and support needs were reviewed throughout the 12 weeks. This confirmed that he no longer required ongoing community care support. Mr R was then provided with information and advice about, signposted to and accessed wellbeing and prevention support/facilities provided in his local community. This continued to help him to delay and/or prevent longer-term care and support needs.

## 6. The Financial Assessment

This relates to **service users** (unpaid carers will not have to contribute to the cost of the support they are eligible for). After an individual has had an assessment of their care and support needs and if they are eligible for support, they will be offered a financial assessment. This is carried out by a member of the Community Care Finance Team who will require a range of information (gathered by the team/social work) relating to the person's finances to determine their ability to contribute towards the cost of their weekly individual budget and at what level. If an individual does not take up the offer of a financial assessment, it will be assumed they have sufficient income to meet the total value of the chargeable element of their individual budget.

A copy of the Financial Assessment form (and other supporting documents such as the financial assessment guidance and procedure notes) is available from the Community Care Finance Team.

## 7. Determining the level of the person's contribution to the individual budget

Section 7 to 7.7 relates to **service users** (unpaid carers will not have to contribute to the cost of the support they are eligible for). The amount will vary from individual to individual.

A person's ability to contribute towards their weekly individual budget is based upon their available weekly income and level of capital. This is worked out by looking at what can be included in the calculation and what should be left out or disregarded.

Health & Social Care Moray begins by considering income from a range of sources, for example (this list is not exhaustive):

- Capital, savings and investments

- Net earnings from employment
- Other property/land (not the individual's sole or main property)
- Any other sources of income such as rental income
- Allowances – Attendance Allowance; Carers Allowance; Disability Living Allowance/Personal Independence Payment (PIP) care component/daily living amount; Disability Living Allowance (mobility component)/Personal Independence Payment (PIP) mobility component; Employment and Support Allowance; Severe Disablement Allowance
- Credits - Pension Credit – Guarantee Credit; Pension Credit – Savings Credit; Universal Credit; Working Tax Credits
- Benefits
- Pensions - Bereavement Pension/Allowance; Retirement Pension; War Widows Pension; War Disability Pension; Occupational Pension
- Income Support
- Compensation Payments

### 7.1. Capital and Tariff Income

Anyone under pension age who has capital (including savings) of over £16,000 will not receive funding from Health & Social Care Moray towards their chargeable individual budget costs.

If someone **under pension age** has capital of between £6,000.01 and £16,000 a tariff (or assumed) income will be applied to that capital at the rate of £1 for every £250 they have above £6,000.01 and this will be added to the calculation of their actual weekly income.

For example, if the person has £7,100 in savings they will be assumed to have an additional income from that capital of £5 per week which will be added to their

actual weekly income from pensions and other benefits etc. and the total income will be included in the financial assessment.

For anyone **over pension age** there is no upper capital limit.

If someone over pension age has capital over £10,000 a tariff (or assumed) income will be applied to that capital at the rate of £1 for every £500 they have above £10,000 and this tariff (or assumed) income will be added to their actual weekly income for the financial assessment.

For example, if the person has £13,200 in savings they will be assumed to have an income from those savings of £7 per week and that is added to their actual weekly income for the financial assessment.

## **7.2. Property**

The value of the home in which the individual lives i.e. the main or sole residence, is disregarded in full.

The value of the person's ownership in any second or subsequent properties will be taken into account as capital.

If the property (main residence or second property) is being marketed for sale it will be disregarded for a period of 26 weeks or longer if considered reasonable in line with Department of Work and Pensions (DWP) regulations.

## **7.3. Income and capital not taken into account**

The following types of income are not taken into account in the financial assessment.

Any payment from:

- Child benefit
- Child Tax Credit

- Christmas bonus
- Council Tax Benefit
- Disability Living Allowance/Personal Independence Payment (Mobility component)
- Far East Prisoner of War payment
- Gallantry awards
- Housing Benefit / Discretionary Housing Payment
- Kinship Care payments
- Social Fund Payments
- Payments from the Scottish Welfare Fund
- Student's grant payment from a public source intended for the childcare costs of a child dependent
- Therapeutic Earnings/Permitted Work Earnings
- Value of a service-user's main or sole residence
- War Pension
- War Disability Pension
- War Widows Pension (Pre-1973)
- Winter fuel payments

#### **7.4. Allowable Expenses**

Deductions/disregards will be made from an individual's assessed income for the following allowable expenses:

- Housing Costs - Rent/Mortgage Payments
- Discretionary Housing Payment
- Council Tax/Water Rates
- Mortgage Insurance
- Property Insurance – Buildings
- DWP Personal Allowance
- DWP Pensioner Premium

- DWP Disability Premium
- Employment Support Allowance – Work Related Activity or Support Component
- Attendance Allowance – Night Element (if applicable)
- DLA Care Component – Night Element (if applicable)
- Personal Independence Payment – enhanced daily living element (if applicable)
- DLA/PIP Mobility Element (if applicable)
- War Widows Pension (Pre 1973)
- % of Income from Lodgers
- % of Earnings
- % of Student Loan
- % of Regular Charitable Payments
- Couples Income Adjustment

## 7.5. Personal Allowance

To ensure an individual is not forced below recognised subsistence levels, Health & Social Care Moray applies an income protection threshold. This threshold is set at a person's basic DWP benefit entitlement (Personal Allowance - such as Income Support/Pension Guarantee Credit) plus a buffer of 25% (rounded up, where applicable, in favour of the service user). This means that a person will retain **at least** (there may also be other income disregards as above) their weekly DWP personal allowance (i.e. Pension Guarantee Credit if over pension age) plus a buffer of 25% over and above that amount.

For example;

Ms. L who is over pension age is assessed as having eligible care and support needs and receives free personal care at home. She requires some other support at home which can be charged for by Health & Social Care Moray. The



financial assessment identifies that Ms. L has savings under £10,000 (so no tariff income is applied on her capital) and income of £272 per week made up of a State Pension, Pension Guarantee Credit and Attendance Allowance. Ms. L has to keep at least her Pension Guarantee Credit (£177.10 for a single person) plus the 25% buffer which comes to £222 (rounded up in favour of the service user). Ms. L therefore appears to have £50 available for a contribution to her support costs (individual budget contribution). However Health & Social Care Moray policy still applies a taper so that only 70% of the £50 available income (after other disregards have been applied) will be used for contributions to the cost of the individual budget. Therefore Ms. L retains an additional £15 from that £50 meaning in total she retains £237 of her weekly income and contributes £35 towards the cost of her chargeable individual budget.

## 7.6. Couples

The income and capital of both members of a couple will be considered as follows when assessing for a contribution towards Non Personal Care:

- a) Where the member of the couple receiving support has personal income and capital below the level of benefit entitlement to that of a single person, they will be assessed as if they were in receipt of single person benefits
- b) If the person receiving support has personal income and capital above the level of benefit entitlement to that of a single person, their actual income will be taken into account

### HOWEVER

If the calculation at b) leaves the member of the couple not requiring support with personal income below the level of benefit they would be entitled to receive as a single person, an adjustment will be made to account for the shortfall.

- c) If the couple are in receipt of joint benefits, all income will be taken into account and couple disregards applied.

When assessing for a contribution towards Non Personal Care joint income and capital will be taken into account and couple disregards applied because both members of the couple may benefit from this type of support (i.e. domestic-type support).

### **7.7. The final determination of the individual's contribution – The Taper**

To determine the maximum amount an individual is financially assessed as being able to contribute, as described earlier, a Taper of 70% (no change from the previous year) is applied to the service user's available/excess income above their personal allowance (see the previous information/examples).

This is consistent with the Charging Guidance from CoSLA which suggests that each Authority should apply a final taper (from 0% to 100%) to available income so that the service user may retain more of their income and not contribute all of their available/excess weekly income after the other disregards have applied. This is consistent with maximising the service user's ability to live independently and with dignity. Setting the taper at less than 100% enables the person to retain an additional amount above their personal allowance (plus 25%). This is consistent with maximising independent living and economic participation in the community for service users (as discussed in the COSLA Charging Guidance).

A service user who is able to contribute from their income will therefore be required to contribute to their individual budget 70% of the income assessed as being available (after their personal allowance and other disregards have been applied - see the above example in section 7.5).

The taper level is kept under review to account for other changes impacting on service user contributions/care costs (for example, the extension of free personal care to people under 65 who have eligible support needs, increases in or freezing of benefits by the DWP, introduction of, increases or freezes in the cost of support charged for at a **flat rate** (see below - additional to any contribution towards an Individual Budget) such as for the maintenance of community alarms, or stair lifts etc.) and balancing that with HSCM need to raise the income required to provide sustainable and quality services/support for all eligible service users in the local population. This balancing of contribution levels with raising income to provide services is consistent with the guidance from COSLA on charging for non-residential care and support.

**Please note:** as stated above there may be some **flat rate charges**, separate and additional to a contribution towards an Individual Budget under Self-directed Support (SDS) that **sit outside the Contributions Policy** (which is only concerned with the contribution towards an Individual Budget). It is important to evaluate the likely impact of the introduction of additional flat rate charges or increasing existing flat rate charges before implementing them as these are an additional cost to the service user above and beyond the assessed contribution to their SDS Individual Budget. It is only the financial assessment and assessed contribution (under this policy) to the service user's Individual Budget that is mindful of their weekly Minimum Income Guarantee/charging threshold (i.e. Pension Guarantee Credit plus 25% buffer for someone over pension age). As such, in line with the CoSLA charging guidance (contributions/charging should be human rights compatible, ensuring dignity, maximising independence and maximising economic participation in the community for service users) any additional flat rate charges that sit outside the contributions policy will be evaluated and kept under review to ensure the policy and overall charging/contributions system is compatible with these principles.

## 7.8 Deprivation of Capital

This is a term used to describe a situation where someone has deliberately transferred to another person or spent capital/savings to avoid costs associated with their care/support. There can be many reasons for transferring or spending capital/savings and not all of them would amount to deprivation of capital. The council needs to make a decision (if it appears during a financial assessment that there may have been a transfer or large spend of capital/savings) based on the circumstances of each case and factors could include; the health of the person when capital was spent or transferred, the timing of the transfer or spend (was it at a time when the person could have anticipated the need for care/support), what it was spent on (i.e. was it spent to meet support needs that could not be met by other means, or otherwise), the type of capital (the council should only consider questions of deprivation of capital when the person ceases to possess capital which would otherwise have been taken into account in a financial assessment), the method/nature of transfer (and whether it constitutes or otherwise ‘acceptable evidence of disposal/transfer’) etc.

In any case where it has been decided that a deliberate deprivation of capital has taken place, the council may treat the person as still having the actual capital that was transferred/disposed of or spent when completing the financial assessment (and calculating any contribution for care/support). The Charging Appeals and Complaints processes are still available in these circumstances.

## 8. Agreeing and paying the individual’s financial contribution

This relates to **service users** (unpaid carers will not have to contribute to the cost of support they are eligible for). Before arrangements are put in place for an individual budget to start, the individual will be asked to agree the level of the financial contribution they are being asked to make towards their chargeable individual budget.

Introduction of the prepayment card for contributions from service users receiving Direct Payments only (Option 1 of SDS)

As stated previously, HSCM is implementing prepayment cards for service users who receive a Direct Payment (Option 1 of SDS) and who are not supported by one of HSCM's approved managed account payroll providers (and therefore not directly employing a Personal Assistant). In relation to the contribution from the service user, the card provider can support/facilitate the contribution being paid onto the card, and can also provide reports to the Self-directed Support team when accounts have been inactive, have no contingency, have excessive spend or the service user contribution is not paid in. This allows for any issues to be identified prior to the financial reviews of the accounts and can be addressed more quickly.

Where a managed account payroll provider is used, the contribution is to be made into the designated bank account. The payroll provider will notify the SDS team when a required contribution is not made, when accounts are inactive, have no contingency or have excessive spend.

If the service user does not agree their level of financial contribution to their weekly individual budget (whether they choose a Direct Payment (option 1 of SDS) or any of the other SDS Options)) they can ask for the financial assessment to be reviewed, explaining why they consider the original calculation is incorrect.

If they remain dissatisfied with the outcome they will be referred to Health & Social Care Moray's Community Care Charging Appeals Group in the first instance.

## 9. Appeals

This relates to **service users** (unpaid carers will not be required to contribute towards the cost of support they are eligible for). The Charging Appeals Group will consider requests for additional disregards to be applied to the financial assessment (such as an

amount towards Disability-Related Expenses if someone accessing care support is also in receipt of a disability benefit such as Attendance Allowance or Personal Independence Payment and has extra expenses – a non-exhaustive list of examples is outlined in section 6.34 of the [CoSLA guidance](#) - directly attributable to their disability).

The individual or their representative will be invited to write to the Community Care Finance Officer outlining the additional costs/disregards they feel should be taken into account. As per COSLA Guidance HSCM applies local discretion on a case-by-case basis, taking into account personal circumstances, where such appeals are made.

Contributions towards the service user's individual budget once the care/support ends

The care and support could end for a number of reasons including; the service user moving into permanent residential care (care home), the death of the service user or the service user simply deciding to end the care and support.

Previously, this has led to situations where a contribution has continued, in some cases, after the care and support has ended. For example, if a large amount of the budget was spent on an expensive item/service to meet eligible care and support needs at the start of the financial year only for the care and support to end soon after (therefore the service user having contributed less at that point than they should have done as a percentage of the total amount spent from their Individual Budget to that point). This could be complicated and could seem unreasonable to service users leading to complaints or appeals. That was because although the financial assessment for a possible service user contribution was generally worked out using their weekly income, the individual budget was traditionally worked out as the amount required in one year or an annual budget divided generally into weekly amounts, to meet that service users eligible care and support needs.

HSCM will no longer (once current service user's annual budget cycles have ended), seek contributions towards the cost of an individual budget after the care and support has ended. To ensure this we have reverted back from an annual budget to the individual budget being a weekly budget which may include our contribution and a contribution from the service user's available/excess weekly income (where the support is chargeable and not free and where a financial assessment has concluded the service user is able to contribute).

## 10. Permanent Residential Care

There is a separate Guidance ([Charging for Residential Accommodation Guide – CRAG](#)) on paying to the cost of residential care. There is also information on Age Scotland's [Care Home Funding](#) Factsheet.

## 11. Equalities Statement

Health & Social Care Moray endeavours not to negatively discriminate on any grounds. Health & Social Care Moray advocates and is committed to equalities and recognises its responsibilities in this regard. Health & Social Care Moray will ensure the fair treatment of all individuals and where any individual feels that they have been unfairly discriminated against, that individual shall have recourse against Health & Social Care Moray in line with the grievance and harassment procedures.

In relation to equality of information provision, Health & Social Care Moray will ensure that all communications with individuals are in plain English, and shall publish all information and documentation in a variety of formats and languages. Where required, Health & Social Care Moray will use the services of its translation team to enable effective communication between us and the individual. Where an individual has sight, hearing or other difficulties, we will arrange for information to be provided in the most appropriate format to meet that individual's needs. We will also ensure that there are no physical barriers that could prohibit face to face communications.

If there is a complaint about discrimination, click on the link below for the reporting form and procedure: <http://www.moray.gov.uk/downloads/file62366.pdf>.

## 12. Data Protection

Data Protection Legislation, including the Data Protection Act 2018 (DPA) and the General Data protection Regulations (GDPR), governs the way information is obtained, recorded, stored, used and destroyed. Data protection is the responsibility of everyone and data protection legislation gives individuals rights to know how personal information can be collected, used and stored. Health & Social Care Moray complies with all the requirements of the legislation and ensures that personal data is processed lawfully, fairly and in a transparent manner; that it is used for the purpose it was intended and that only relevant information is used. Health & Social Care Moray will ensure that information held is accurate, and where necessary kept up to date, and, that appropriate measures are taken that would prevent the unauthorised or unlawful use of any personal information.

Any sharing of data between NHS Grampian and the Health & Social Care Moray is carried out in accordance with the Information Sharing Protocols between the two bodies. Refer to the Single Shared Assessment page of the intranet, particularly the Practitioner Leaflet v5.0 and the Information Sharing without Consent Protocol.

The Council's Data Protection Officer is Alison Morris, Records and Heritage Manager. For more information please see the Council's DPA Guide: [http://intranet.moray.gov.uk/Information\\_management/information\\_security.htm](http://intranet.moray.gov.uk/Information_management/information_security.htm) or [http://www.moray.gov.uk/moray\\_standard/page\\_119859.html](http://www.moray.gov.uk/moray_standard/page_119859.html) for Subject Access Request information.



### 13. Freedom of Information

The purpose of the Freedom of Information (Scotland) Act 2002 is to “provide a right of access by the public to information held by public authorities”. In terms of section 1 of the Act, the general entitlement is that a “person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority”. Information that a person is entitled to is the information held by the public authority at the time that the request is made. This is a complex area of the law that can overlap with the Data Protection Act and other legislation.

Please see the following link for guidance to the law in Scotland;

<http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Briefings.aspx>

All FOI requests to Health & Social Care Moray should be directed to the FOI team via [info@moray.gov.uk](mailto:info@moray.gov.uk). More information is available: [http://www.moray.gov.uk/moray\\_standard/page\\_53728.html](http://www.moray.gov.uk/moray_standard/page_53728.html).

### 14. Human Rights Act

In October 2007 the three equalities commissions: Racial Equality, Disability Rights and Equal Opportunities were merged to form one Commission: **The Equality & Human Rights Commission (Scotland)**

<https://www.equalityhumanrights.com/en/commission-scotland>.

The main aspects covered in the **Human Rights Act 1998** are:

Right to life; protection from torture; protection from slavery and forced labour; right to liberty and security; right to a fair trial; no punishment without law; right to respect for private and family life; freedom of thought, belief and religion; freedom of expression; freedom of assembly and association; right to marry; protection from discrimination; protection of property; right to education and right to free elections.

The Human Rights Act can overlap with many areas of Health & Social Care Moray's policies, any doubts or queries regarding its effect or implications must be referred to the Legal Services Manager (Litigation and Licensing).

## 15. Review and Feedback

An Equality & Diversity Impact Assessment has been carried out for this Policy.

This policy document has been reviewed and updated for 2020/21 and will be reviewed thereafter each year and in line with CoSLA/DWP guidance. Specific costs for support documentation such as booklets/leaflets on fees and entitlements will be reviewed annually and changed as appropriate.

Feedback on this policy from service-users, unpaid carers, the public, nominated Government officials and Health & Social Care Moray staff will be considered at review and amendments, enhancements made to the policy as appropriate.

## 16. Links to other policies, procedures, guidance and legislation

This policy is linked to;

- [CoSLA guidance on charging for non-residential care services 2021/22](#)
- Social Work (Scotland) Act 1968 (Section 87)  
<http://www.legislation.gov.uk/ukpga/1968/49/section/87>
- Community Care and Health (Scotland) Act 2002 (Part 1 Community Care)  
<http://www.legislation.gov.uk/asp/2002/5/part/1>
- Social Care (Self-Directed Support) (Scotland) Act 2013  
<http://www.legislation.gov.uk/asp/2013/1/contents/enacted>
- [CCD3/2018](#) – extension of Free Personal Care to under 65's
- [Carers \(Scotland\) Act 2016 and Statutory Guidance](#)
- [Eligibility Criteria Policy](#)

- [Self-Directed Support \(SDS\) Policy](#)
- [Self-directed Support \(SDS\) Procedure](#)
- [Hospital Discharge Policy](#)
- [The Moray \(Partners in Care\) 3 tier policy](#)
- Reablement Policy

## 17. Glossary of terms

**Self-Directed Support (SDS)** – SDS is the support a person chooses; purchases or arranges to meet their agreed health and social care need and achieve the outcomes most important to them. There are 4 options for SDS including a Direct Payment to the service user to purchase and arrange their own care and support (with support to do so if required).

**Contribution** – this is the amount of weekly income the person is assessed as being able to pay towards the care and support they need as part of their SDS Individual Budget.

**Non-residential services** – this is care and support that is provided outside of permanent residential care (i.e. a care home) and can include care at home and in supported or sheltered housing.

**Individual budget** – this is the amount of money Health & Social Care Moray has worked out it will cost to meet the person's eligible care and support needs and personal outcomes.

**Financial assessment** – this is the process of looking at the capital (including savings and investments) and weekly income the person has, to work out how much they can contribute towards the cost of the individual budget to meet their eligible care and support needs and outcomes they have identified as important to them.

**Capital** – this is the term used to describe assets such as savings, investments and property.

**Tariff income** – this is the term used to describe the income that the council assumes someone to have from their capital such as savings if the value is over £6000 (if you are under pension age) or £10,000 (if you are above pension age). This is added to the

person's actual weekly income from benefits, state and occupational pensions etc. to work out the total income someone has each week for the financial assessment.

**Personal allowance** – this is the amount of money the Government has set as the weekly minimum that someone should be entitled to have depending on their circumstances (for example, £163.30 for a single person over pension age who is entitled to Pension Guarantee Credit).

**Buffer/income buffer** – this is the additional income above the personal allowance that the person is entitled to retain (as a minimum) each week to promote and maximise independent living.

**Disability-related expenses** – this is the term to describe the additional costs that someone has due to the disability they have. This could be the cost of extra heating or laundry or a special diet related to the disability. A disregard towards such expenses can increase the amount of income the person may be able to retain above the personal allowance and income buffer. This also promotes/maximises independent living.

**Disability Premium** – an additional amount paid on top of certain benefits such as Income Support and Income-based Jobseekers Allowance if someone is registered blind and/or entitled to, for example, Disability Living Allowance or Personal Independence Payment. For further information see <https://www.gov.uk/disability-premiums-income-support/overview>.

**Severe Disability Premium** – an additional amount paid on top of certain benefits (such as Pension Guarantee Credit) depending on the person's circumstances and on the benefits they are entitled to (including Attendance Allowance, middle or high rate care component Disability Living Allowance or standard or enhanced rate daily living component of Personal Independence Payment. For further information see <https://www.gov.uk/disability-premiums-income-support/eligibility>.

**Compulsory Treatment Order (CTO)** – an order under the Mental Health (Care & Treatment) (Scotland) Act 2003. It authorises the detention in hospital and/or treatment of a person for a period of six months. The CTO will set out a number of conditions that the person will need to comply with. These conditions will depend on whether the

person has to stay in hospital or is in the community. Only the Mental Health Tribunal may grant one in specific circumstances.

**Resource Allocation System (RAS)** – this is the tool/method Health & Social Care Moray uses to work out how much is needed to meet the person's required care and support outcomes. Points are allocated according to the amount/type of support the person needs and the points are then turned into an amount of money (the indicative budget) that is required to achieve those care and support outcomes.

**Reablement** – this is the term used to describe a time-limited (up to 12 weeks) process of supporting someone to carry out their own daily living tasks so that the person can retain or regain independent living skills to maximise their long-term independence and/or delay or reduce care needs.

**Moray Partners in Care (3 tier) policy** – this is the policy for Moray in relation to the delivery of integrated health and social care services which aims to support better outcomes for service users, patients and unpaid carers. Tier 1 is 'help to help you' (including information and advice) with the focus on supporting people to prevent, reduce and delay their care and support needs. Tier 2 is 'help when you need it' (immediate help in a crisis and re-ablement support to help maximise independence and reduce or delay care needs). Tier 3 is 'ongoing support for those who need it' (for people with ongoing eligible care and support needs and can include Self-Directed Support).

## 18 Appendices

### Appendix 1

Links to the;

- Financial Assessment Completion Guidance
- Financial Assessment Form
- Non-Residential Care Booklet

These appendices will be linked to once the up-to-date versions are available

## SECTION 1 - DO I NEED AN EIA?

## DO I NEED AN EIA?

**Name of policy/activity:**

**Contributing to the Cost of Adult Social Care and Support (non-residential) within a Self-Directed Support System**

Please choose one of the following:

Is this a:

- New policy/activity?
- **Existing policy/activity**
- Budget proposal/change for this policy/activity?
- Pilot programme or project?

**Decision**

Set out the rationale for deciding whether or not to proceed to an Equality Impact Assessment (EIA)

This Policy is central in defining the adult service users who may (or will not) need to contribute on a weekly basis towards their Individual Budget (to meet their eligible support needs and agreed, personal outcomes). Therefore, it sets the Policy direction that leads to (via the actual contributions for care/support) the amount of income received by Moray Council from such contributions (which is income that helps us to provide sustainable and quality services/support to the eligible, local population). This balancing of the maximisation of independent living for individuals versus the need to raise income to provide services/support is supported by the **COSLA Guidance** on [Charging for Non-Residential Care](#)).

There have been several changes since the last update of the Policy. This includes the Carers (Scotland) Act 2016 clarifying that unpaid carers will not have to contribute to any support they are eligible for, the end to the freeze on certain welfare benefits and the introduction of Free Personal Care for people under 65 who are eligible. This has led (as of early 2020) to 213 service users under 65 being in receipt of Free Personal Care (at a cost to the council of approximately £260,000).

As a result there have been several changes to this Policy to account for the resulting legislative requirements and to ensure those service users who should not be contributing are not doing so.

The Policy has changed mainly in terms of administrative/non-contribution based efficiency measures relating to Direct Payments and payment mechanisms for contributions to the service user's Individual Budget, including paying the contribution net of the service user's assessed contribution (if they have to contribute) and introduction of

prepayment cards for some service users accessing Direct Payments (Option 1 of SDS). These changes have no material effect on the amount that the service user does or does not have to contribute to their Individual Budget. These administrative/efficiency changes are consistent with the Self-directed Support Act 2013 and related Guidance (specifically around Direct Payments and financial assessment/care charging administration by the Community Care Finance and Self-Directed Support (SDS) Teams)).

After careful consideration and use of the Chief Social Work Officer's discretion under the CoSLA Guidance it was decided that the Taper applied to the service user's available income for charging would not be changed and remains at 70% of the service user's available/excess income above their charging threshold (plus 25% buffer). Therefore, there is no significant change to service user contributions above the annual, minor changes via the updated 2021/22 CoSLA Guidance. A 100% Taper would mean that all available/excess income would be taken into account as a contribution and anything less than 100% enables the service user to retain more income above their DWP Personal Allowance/Charging Threshold to assist with maximising independent living and maintaining dignity.

Given the role this Policy plays in income generation and contributions from service users it is clear that this updated Policy requires an EDIA.

**Date of Decision:** 20/08/2021

**If undertaking an EIA please continue onto the Section 2. If not, pass this signed form to the Equalities Officer.**

**Assessment undertaken by** - Garry Macdonald, Commissioning & Performance Officer, Health & Social Care

Director or Head of Service	Jane Mackie
Lead Officer for developing the policy/activity	Garry Macdonald
Other people involved in the screening (this may be council staff, partners or others i.e contractor or community)	Adult Care Practice Governance Board, Strategic Leadership Group, Community Care Finance Team Manager and staff, Self-directed Support Team Manager and staff and SDS Steering Group.



## SECTION 2: EQUALITY IMPACT ASSESSMENT

**Brief description of the affected service****1. Describe what the service does:**

This Policy is central in defining the adult service users who may (or will not) need to contribute on a weekly basis towards their Individual Budget (to meet their eligible support needs and agreed, personal outcomes). Therefore, it sets the Policy direction that leads to (via the actual contributions) the amount of income received by Moray Council from such contributions (which is income that helps us to provide sustainable and quality services/support to the eligible, local population).

The Policy seeks to hold that balance between maximising independent living for individuals and being Human Rights Compatible (through the financial assessment process, taking into account non-discretionary elements such as the Personal Allowance/Charging Threshold plus 25% buffer and other income disregards inherent in the guidance. It also takes into account discretionary elements such as where we set the Taper on available/excess income) and ensuring enough income from contributions to ensure the continuation of the provision of sustainable and quality services/support to the local population.

**2. Who are your main stakeholders?**

- Adult Service Users (particularly those eligible for chargeable services/support)
- Unpaid Carers
- The Community Care Finance Team
- The Self-directed Support Team
- Managers and staff of Adult Social Work Teams
- External Providers including Private Care Agencies, Individual Service Fund Providers and Direct Payments Payroll Providers

**3. What changes as a result of the proposals? Is the service reduced or removed?**

In essence there is no change in the overall framework for financial assessments and contributions which has been in place for decades. The changes are an update to the Policy to take into account legislative requirements around;

- Free Personal Care for people under 65 who are eligible
- Clarification that Unpaid Carers are not to be charged for eligible support

The other changes (administrative/non-contribution based efficiency) are within the terms/boundaries of the legislation and guidance and are designed to balance the maximisation of independence for service users with ensuring sustainable and quality services/support for the local population.

Many service users (particularly those now eligible for Free Personal Care – 213 in early 2020) no longer need to make a contribution or will make less of a contribution. Those

that do make a contribution will see the exact same financial assessment process, largely taking into account or disregarding the same income and capital/income as before with only the usual, minor changes/uprating contained within the updated CoSLA Guidance for 2021/22.

#### 4. How will this affect your customers?

As above – some service users' will (are) no longer paying (pay) a contribution or are paying less of a contribution to the cost of their care/support as a result of Free Personal Care for people under 65.

As above – service users who have eligible care and support needs and who are assessed as able to contribute towards chargeable services/support as part of their SDS Individual Budget will see only the annual, minor changes as per the updated CoSLA Guidance. There are no significant changes to the amount of income they have to contribute (from any available/excess income they may have above their Charging Threshold (plus 25%)).

This is consistent with the terms of the relevant legislation and guidance including the discretion for the Authority of where to set the Taper to balance maximisation of independent living for service users with ensuring enough income to provide sustainable, quality services/support for the local population.

Community Care Finance data has highlighted that since April 2019, as of early 2020 213 service users (under 65) who would/may previously have had to contribute to the cost of care and support that meets the definition of Free Personal Care, were no longer doing so. This has led to a decrease in income for the council approximately £260,000.

Complaints information was also analysed for the past 18 months. There were no complaints relating to contributions but there is another defined pathway for these appeals (the Community Care Charging Appeals Panel).

The Charging Appeals Panel considers a range of requests/appeals from service users relating to; the financial assessment process, the service user's calculated and assessed contribution amount and appeals around charging/contributions. This includes the opportunity for service users to request additional income be disregarded as a contribution to the costs related to their disability (DRE) and with reference to maximising their independence. This links to Section 8 (mitigating factors to offset any negative impacts, including socio-economic, on service users).

5. Please indicate if these apply to any of the protected characteristics		
Protected groups	Positive impact	Negative impact
Race		
Disability	√	√

Carers (for elderly, disabled or minors)	√	
Sex		
Pregnancy and maternity (including breastfeeding)		
Sexual orientation		
Age (include children, young people, midlife and older people)	√	√
Religion, and or belief		
Gender reassignment		
Inequalities arising from socio-economic differences	√	√
Human Rights	Article 14 may be engaged if another relevant Article is engaged in combination (i.e. Article 8 or Article 1 of Protocol 1 Right to Property) Article 6 which includes the right of appeal which links to charging appeals and complaints procedures. <a href="https://www.equalityhumanrights.com/en/human-rights/human-rights-act">https://www.equalityhumanrights.com/en/human-rights/human-rights-act</a>	

## 6. Evidence. What information have you used to make your assessment?

<b>Performance data</b>	√
<b>Internal consultation</b>	√
<b>Consultation with affected groups</b>	
<b>Local statistics</b>	√
<b>National statistics</b>	
<b>Other</b>	√

## 7. Evidence gaps

Do you need additional information in order to complete the information in the previous questions?

No. All of the above information relates to statutory requirements, use of discretion within the boundaries of the relevant guidance, consultation with key staff as well as taking into account the charging appeals process (one of the mitigating factors that offset potentially negative impacts from the implementation of the Policy).

## 8. Mitigating action

*Can the impact of the proposed policy/activity be mitigated? Yes*

Please explain

The charging guidance is not statutory guidance and provides significant discretion (within certain non-discretionary boundaries such as the Personal Allowance threshold and 25% buffer being a minimum income guarantee for the service user) for the Authority. This means that even where support is chargeable and the individual is assessed financially as being able to contribute, they may not have to contribute all of their available/excess income (which would be a 100% Taper).

Our Taper is remaining at 70% (which contributes to maximisation of independent living) so there is still room (30%) for further discretion. That might be impacted upwards or downwards by future developments that influence services/support and charging (for example, the independent review of adult social care). For the time being, therefore, there is no significant change to/increase in contributions from service users towards their SDS Individual Budget. The main changes in the updated Policy relate to non-contribution based administrative and efficiency changes. These will streamline the Direct Payments process, bringing increased clarity for staff and service users (and their representatives). For example, clarity in how payments/contributions from the Authority are made, the return to a weekly Individual Budget for the service user (meaning no more contributions by them after the support ends as was the case with annual budgets) and introduction of prepayment cards for some service users with a Direct Payment.

As well as a complaints process we have, again consistent with the charging guidance, set up a specific Community Care Charging Appeals Panel. The service user (or their authorised representative) has access to the panel and able to state the case as to why they think the contribution they are being asked to make is 'unreasonable'. This could be in relation to;

- Procedural errors in the financial assessment
- Seeking additional income disregards (retaining more income) as a contribution towards particular costs that are, for example, related to disability (Disability-related Expenditure such as the cost of extra laundry or extra support around the house, not otherwise available to them, to maximise their independence)

Positive outcomes (for service users) from the Appeals Panel Process result in the service user retaining more income (either through application of the process but more likely the discretion of the panel within the boundaries of the charging guidance). This helps to maximise the service user's independence. The panel inevitably operates by taking the unique circumstances of each case into account and making decisions on a case by case basis to avoid any 'fettering of discretion'.

Financial assessments also include a financial 'health check' for service users to ensure that they are claiming their entitlements – for example, ensuring that those who may be eligible are claiming for Pension Credit, Attendance Allowance, Personal Independence Payment and any associated premiums/disability premiums (additional amounts paid on top of the passport benefit).

Financial reviews are carried out when requested or otherwise at key points in the

service user's support – with flexibility to account for (change the financial assessment amount) changes in the service user's circumstances or health (loss of income, increased income, sale of or acquisition of capital, change in benefit rates etc.).

There are other sources of non-statutory support that service users can be signposted to. For example, for assistance with various costs/expenses. That includes, for example (through their previous occupation, geographic location, age or gender), organisations such as Turn2Us/Elizabeth Finn Care <https://www.turn2us.org.uk/Get-Support>.

## 9. Justification

If nothing can be done to reduce the negative impact(s) but the proposed policy/activity must go ahead, what justification is there to continue with the change?

**Please see Section 8** for the mitigating factors that reduce any negative impacts of the Policy

What is the aim of the proposal?

To balance the maximisation of independent living for individual service users with ensuring enough income from contributions (to the cost of chargeable care/support) to ensure the sustainability and quality of services/support for the local population.

Have you considered alternatives?

Yes. Some of the changes were legislative requirements (including free personal care for people under 65 who are eligible and not charging unpaid carers) so no alternative was available to implementing these. With regard to discretionary elements and impact on income (for the service user and the Authority), we considered other options for the Taper. This included changing from 70% to 80%, which would have meant an increase in contributions from service users from their weekly income. With a reduction in income of £260,000 (approximately) through the implementation (so far as of early 2020) of free personal care for people under 65, these other options (Taper increase) were worth exploring with respect to ensuring sustainable/quality services/support for the local population. The decision was taken to leave the Taper at 70% and not to partially offset the loss of income from the changes to free personal care. In the circumstances at the time (including Covid-19 and potential outcomes from the Independent Review of Adult Social Care) we wanted to place more emphasis on ensuring a balance towards maximisation of independent living, ensuring dignity for service users and ensuring the policy is Human Rights compatible. The only small contribution-based changes are those included annually in the updated CoSLA Charging Guidance.

## SECTION 3 CONCLUDING THE EIA

## Concluding the EIA

1. No negative impacts on any of the protected groups were found.	
2. Some negative impacts have been identified but these can be mitigated as outlined in question 8.	√
3. Negative impacts cannot be fully mitigated the proposals are thought to be justified as outlined in question 9.	
4. It is advised not to go ahead with the proposals.	

**Decision**

Set out the rationale for deciding whether or not to proceed with the proposed actions:

The actions are consistent with legislative requirements and the terms/boundaries and discretion inherent in the charging guidance. Furthermore the actions ensure (along with the mitigating factors in Section 8) the continuation of the balance between maximisation of independent living for service users and ensuring enough income from contributions to continue to provide/facilitate sustainable and quality support for the local population (consistent with the terms of the charging guidance)

**Date of Decision:** 20/08/2021

**Sign off and authorisation:**

<b>Service</b>	Health & Social Care
<b>Department</b>	Adult Social Care
<b>Policy/activity subject to EIA</b>	Contributing to the Cost of Adult Social Care and Support (non-residential) within a Self-Directed Support System
We have completed the equality impact assessment for this policy/activity.	Name: Garry Macdonald Position: Commissioning and Performance Officer – Health & Social Care Date: 20/08/2021
Authorisation by head of service or director.	Name: Jane Mackie Position: Chief Social Work Officer Date: 20/08/2021
Please return this form to the Equal Opportunities Officer, Chief Executive's Office.	