



REPORT TO: SPECIAL MORAY COUNCIL ON 23 JANUARY 2019

SUBJECT: REVIEW OF COUNCIL'S CONSTITUTIONAL DOCUMENTS

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To invite the Council to approve changes to Council's constitutional documents as detailed in Section 4 of the report.
- 1.2 This report is submitted to Committee in terms of Section II (15) of the Council's Administrative Scheme relating to the formulation, review and amendment of the Administrative Scheme and Standing Orders.

2. RECOMMENDATION

2.1 The Council is asked to consider and approve the proposed changes to the Council's:-

- (i) Standing orders, as set out in Appendix I;**
- (ii) Scheme of Administration as set out in Appendix II;**
- (iii) Scheme of Delegation as set out in Appendix III;**
- (iv) Financial Regulations as set out in Appendix IV; and**
- (v) Authorisation Policy as set out in Appendix V.**

2.2 Due to the size of the appendices they are available on the Council's Committee Management System at <https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/86/Committee/2/Default.aspx>

3. BACKGROUND

- 3.1 In terms of Standing Order 88 the Council is required, at least once every year, to review the standing orders to determine whether any alteration should be considered.
- 3.2 A number of changes are also required to the Council's Standing Orders, Administrative Scheme, Scheme of Delegation, Financial Regulations and Authorisation Policy to reflect approved changes in responsibility for various tasks. These changes are detailed at paragraphs 4.1 to 4.5 below.

4. PROPOSALS

4.1 Amendments to the Council's Standing Orders

SO No	Amendment	Reason
26	Remove wording "The vote shall be taken by means of a show of hands".	Manner of voting is specified in SO 62 (a) and can include other methods. Custom and practice has been electronic or by roll call.
28	Reword to read "The business of an ordinary meeting of the Council shall proceed in the order specified in the notice calling the meeting.....etc	To differentiate between an ordinary scheduled meeting and a special meeting.
28 (e)	Reword to read "Minute(s) of the previous meeting(s) including Sub-Committees"	SO 28(e) and (f) are in effect a duplication of each other. This amendment combines into a single order.
28 (f)	Remove in entirety	Duplication of 28 (e)
28 (g) to (j)	Renumber	Renumber following deletion of 28(f) above
28 (j)	Remove wording in brackets (Question Time for the standing Committees of the Council)	This change is to accommodate the fact that each service committee now approves its own minutes and they are no longer required to be ratified at full council.
28 (k)	Include new 28 (k) 'Question Time'	This better reflects current practice at committees where questions on the minutes are taken separately from Question Time
	Remove wording "*meetings of the Council only, excepting meetings of the Council's standing Committees"	No longer relevant as each service committee now approves its own minutes.
29	Add new para 29 "The business at special meetings shall take place in the same order, except that notice of urgent business, minutes, written questions, petitions, Notices of Motion and Question Time shall not be included." Thereafter renumber current para 29 onwards.	This will formalise what has been ' custom and practice'

4.2 Amendments to the Scheme of Administration

Para Reference	Amendment	Reason
III (B) (59)	Add new para (59) 'To consider all Community Asset Transfer requests including disposals above £100,000 in value and rental concessions over £50,000 per annum.'	Added to reflect requirements arising from Part 5 of the Community Empowerment (Scotland) Act 2015 ("the Act") and the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 ("the Review Regulations") as agreed at meeting of Moray Council held on 6 June 2018 (para 12 of the Minute refers).
Contents list and III (VI)	Amend name of Service Development Group to read Corporate Plan Steering Group.	Housekeeping – name of group agreed at meeting of Moray Council dated 17 May 2017 (para 7 of the Minute refers)

4.3 Amendments to the Scheme of Delegation

SECTION 2 – GENERAL DELEGATION TO CHIEF EXECUTIVE AND DIRECTORS – CENTRAL MANAGEMENT TEAM		
Para Reference	Amendment	Reason
2 (10)	Add new para (10) 'Participation Requests Corporate Management Team to consider and respond to participation requests.'	Added to reflect requirements of Part 3 of the Community Empowerment Act which places a duty on public service authorities, as defined by the Act, to consider and respond to participation requests by participation bodies. As agreed at the meeting of Policy and Resources Committee held on 8 May 2018 (para 9 of the Minute refers).
2 (11)	Add new para (11) ' Use of Coat of Arms Chief Executive, in consultation with the Convener and Group Leaders, to consider requests for the use of the Council's Coat of Arms.'	This arose from a request from an outside organisation (WASPI) to the then Council Leader to use the Council's Coat of Arms on a banner for a procession to lobby the Scottish Government in Edinburgh.

SECTION 3 – PROPER OFFICERS AND STATUTORY APPOINTEES		
(2) (a) (i)	<p>Amend to read</p> <p>(i) Section 3 – Chief social Work Officer</p> <ul style="list-style-type: none"> • Head of Adult Services <p>Note: The Chief Social Work Officer post has a statutory designation, in terms of the Local Government Act 1995, with responsibility for oversight of all Social Work services, and a direct line of accountability to the Council for the exercise of those responsibilities.</p>	Amended to reflect the change of appointment of the Chief Social Worker post from the Head of Integrated Children's Services to the Head of Adult Services as agreed at the meeting of the council on 5 September 2018 (para 14 of the minute refers).
SECTION 7 – FINANCIAL SERVICES		
(17)	<p>Add a new para 17 'Procurement Strategy –</p> <p>Future minor amendments delegated to Head of Financial Services subject to consultation with Group Leaders who will determine whether any particular minor amendment should be reported to the P&R Committee.'</p>	As agreed at meeting of Policy and Resources Committee on 8 May 2018 (para 7 of the minute refers).
SECTION 8 – LEGAL AND DEMOCRATIC SERVICES		
(15)	<p>Delete</p> <p>Re-number accordingly</p>	Council ceased to have statutory function for this wef 1 April 2017, functions transferred to the Scottish Public Services Ombudsman.
(30)	Add a new para 30	Housekeeping – bringing into line with changes to delegation from Head of Financial Services to Head of Legal and Democratic Services approved by Moray Council on 3 February 2016 (para 8 of the minute refers).
SECTION 12– INTEGRATED CHILDREN'S SERVICES		
(51)	Delete para (51) - This delegation has been given to the Head of Adult Services and is listed in Section 3 under Statutory Appointees	As agreed at the Meeting of Moray Council dated 5 September 2018 (para 14 of the minute refers).

GENERAL CHANGE -		
	Amend all reference to Chairman to read Chair and Deputy Chair to read Depute Chair	To ensure consistency throughout all constitutional documents.

4.4 Amendments to the Financial Regulations

Para Reference	Amendment	Reason
1.3	Inclusion of reference to the Chief Finance Officer or the Moray Integration Joint Board	To reflect current practice
1.9	New paragraph on breaching or non-compliance of the Regulations	To strengthen existing procedures
2.1	Updated references for Financial Planning	To reflect current practice
2.3	Inclusion of option to report to Moray Council	To reflect current practice
2.11	Updated definitions of Services	To reflect current practice
2.13	Clarification of the process of dealing with proposals that are not funded	To strengthen existing procedures
2.16	Inclusion of "General Revenue Grant"	For clarification purposes
2.17	Updated references for Capital plan	To strengthen existing procedures
2.21	Updated process for the Capital plan	To strengthen existing procedures
3.4	Clarification of the process for emergent situations	For clarification purposes
3.6 & 3.7	Merge of the two paragraphs	For clarification purposes
3.11	Deletion of paragraph as no longer required	To strengthen existing procedures
3.13	Updated process for time records and pay documents	To strengthen existing procedures
3.14	Updated process for staffing establishment lists	To reflect current practice
3.33	Updated procedure for developer obligations/contributions	To strengthen existing procedures
4.5	Amendment to limit for money laundering purposes	To strengthen existing procedures
4.11	Inclusion of reference to the Council's charging policy	To reflect current practice
5.9	Update of process for concessionary rents	To strengthen existing procedures
5.15	Update of process relating to Community Asset Transfers	To reflect current practice
10.7	New paragraph relating to	To reflect change in legislation

	requirements for Common Good under the Community Empowerment Act	
11.5 & 11.6	Update of procedure for receiving hospitality	To reflect current practice
13.2	Update of process of Members interests	To reflect current practice
14.1	Update to reference to legislation	To reflect change in legislation
Appendix 2	General update to links	To reflect current practice

4.5 Amendments to the Authorisation Policy

Para Reference	Amendment	Reason
2.1	Inclusion of the Chief Finance Officer post for the Moray Integration Joint Board	To reflect current practice
2.1	Updated link to procurement procedures	To reflect current practice
4.3	Updated link to purchasing card guidance	To reflect current practice

4.6 The Financial Regulations and the Authorisation Policy will be reviewed on an annual basis, to reflect the pace of change in recent years.

4.7 **APPENDIX IV** and **V** will be amended for page formatting and numbering before publishing, once draft document has been approved.

5. **SUMMARY OF IMPLICATIONS**

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

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

(b) Policy and Legal

Provision of Standing Orders ensures that the Council's affairs are administered in accordance with the law, propriety and proper standards.

(c) Financial implications

None.

(d) Risk Implications

Updated constitutional documents help to promote good governance and reduce the chance of a successful challenge to Council decisions.

(e) Staffing Implications

The proposed amendments can be accommodated within existing staff resources.

(f) Property

None.

(g) Equalities

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

(h) Consultations

The review of the constitutional documents has been undertaken in consultation with the Convener, the Leader of the Council and other group leaders and the Corporate Management Team.

6. CONCLUSION

6.1.1 The annual review of the Council's constitutional documents has resulted in a number of improvements being identified and the Standing Orders, Scheme of Administration, Scheme of Delegation, Financial Regulations and Authorisation Policy have been redrafted accordingly. The Council is asked to approve the amendments.

Author of Report:

Background Papers:

Ref: