
SCHEME OF ADMINISTRATION

Report by Chief Executive

SCOTTISH BORDERS COUNCIL

28 September 2017

1 PURPOSE AND SUMMARY

- 1.1 **This report gives details of a review of the Council's decision making structure and seeks approval for a new Scheme of Administration.**
- 1.2 Between 2001 and 2012 the Council operated an Executive/Scrutiny committee structure which had been introduced following a review of its business and working practices in response to the publication of the 1999 findings of the McIntosh Commission. After the election in May 2012, a hybrid committee structure was introduced in October 2012 which incorporated the best from both the traditional service committee and Executive/Scrutiny structures. This structure operated until Council decided to revert to an Executive/Scrutiny model in January 2015. Experience would suggest that for this Council an Executive/Scrutiny structure is a more effective decision making mechanism, with Scrutiny providing a balance and challenge to the Executive. This report recommends retaining that model.
- 1.3 The recent change in the corporate structure of the Council demonstrates a cross-cutting approach to service provision, not just within the Council, but in conjunction with other public bodies and organisations both nationally and in the Scottish Borders. Any proposed new committee structure will need to take this changed way of working into account. A new Scheme of Administration is attached as an Appendix to this report, which highlights the suggested changes to the existing Scheme. These suggested changes within that Scheme are detailed in Section 6 of this report. Should these changes be approved, the Scheme of Delegation will also require to be amended.
- 1.4 There are some proposed changes to the Locality Committees. However, further consultation is required with the Community Planning Partners and the Locality Committee Chairmen on how this will be managed going forward before a final membership and remit is brought back to Council for approval.

2 RECOMMENDATIONS

2.1 I recommend that the Council agrees:-

- (a) to retain the Executive/Scrutiny model for its decision making structure;**
- (b) to approve the amended Scheme of Administration as attached in the Appendix;**
- (c) to appoint the members of the Major Contracts Governance Group;**
- (d) that, with the functions from the Petitions and Deputations Committee transferring to the Audit and Scrutiny Committee, to delegate authority to the Clerk to the Council to amend the petitions procedure accordingly;**
- (e) to amend the Scheme of Delegation:**
 - (i) to delegate authority to the Chief Executive to set up a Members Sounding Board, in consultation with the Convener, to consider any matters requiring broad political input prior to consideration by Council, as necessary;**
 - (ii) to delegate authority to the Service Director Assets and Infrastructure to approve local traffic management schemes and the making of temporary, permanent, or experimental orders for the regulation of traffic, including stopping up orders, in consultation with local Members and with consultation through Area Partnerships for major changes; and**
- (f) that a report is brought back to Council on the final membership and remit of Area Partnerships.**

3 BACKGROUND

- 3.1 Between 2001 and 2012 the Council operated an Executive/Scrutiny committee structure which had been introduced following a review of its business and working practices in response to the publication of the 1999 findings of the McIntosh Commission '*Moving Forward: Local Government and the Scottish Parliament*'. Two options were considered at that time: the introduction of an Executive/Scrutiny model; or a refinement of the then committee system. While it was considered that both models could provide opportunities for more integrated working, for a more corporate policy led approach and for more efficient and quicker decision making, it was recognised at the time that these would be achieved more effectively in the Executive/Scrutiny model. When judged against the guiding principles behind the McIntosh Commission's recommendations, the Executive/Scrutiny model had the added strengths of ensuring more accountable political leadership and more integrated involvement across the various Council services with public, community council, voluntary organisations and partner agencies.
- 3.2 The role of the Executive in the new structure was to provide strategic and community leadership; ensure best value in the provision of Council services; prepare new policies for consideration by Council; prepare and monitor the Council's revenue and capital budgets within agreed policy; set standards and targets for service delivery; and make decisions within budget and policy on all matters which had not been specifically delegated to specialised committees or officers. The Executive was counter-balanced by a Scrutiny Panel whose main role was to monitor the performance of the Council, the Executive and services against agreed standards, targets and budgets; review the effectiveness of the Executive's decisions and questions members of the Executive; initiate or undertake reviews; and manage the "call-in" procedure, whereby individual decisions of the Executive could be reviewed.
- 3.3 Following the election in May 2012, a review of the Council's decision making structure was carried out which resulted in a new decision making model, incorporating the best from both the traditional service committee and Executive/Scrutiny structures, being brought in in October 2012, with members from all political parties included in the membership of the main committees – Executive, Education, Environment & Infrastructure, and Social Work & Housing. The remits of Scrutiny and Performance Monitoring Panels were included in the remits of the Executive and service committees. A Petitions Committee was added and changes were made to Area Forums. The "call-in" process ceased. When the new structure was introduced, it was agreed that a review would be carried out after 18 months.
- 3.4 The subsequent review highlighted concerns over the working of the new committee structure, with it being neither a true Executive/Scrutiny structure nor a true traditional service committee structure. While Service committees seemed to be bedding in, it was recognised that the scrutiny role of committees was not really being recognised. There was a lack of financial and strategic decision making within Service committees along with a lack of clarity on the terms of reference for what each committee did, and this had led to some confusion for both Members and officers. Whilst a lot of information was being presented at committee, there was sometimes little to show from this. Key issues on transformational change were not coming through Service committees,

with updates being given on what was happening rather than discussion on proposals and a significant number of Members felt that that it was generally difficult to get "sightedness" on what was happening across the Council. The decision making structure was then changed back to an Executive/Scrutiny structure in January 2015.

- 3.5 A traditional committee structure is based on a fixed cycle of meetings – either at six or eight week intervals – with major policy and financial decisions being taken by a Policy and Resources Committee. While Members can gain a greater understanding and insight into particular Services, such a system can also foster 'silos' and can lack corporate oversight when it comes to Service and financial planning. In a traditional committee structure there are generally no scrutiny measures in place.
- 3.6 Experience would suggest that for this Council an Executive/Scrutiny structure is a more effective decision making mechanism, with Scrutiny providing a balance and challenge to the Executive. This report recommends retaining that model.

4 OTHER LOCAL AUTHORITIES

- 4.1 A briefing report in December 2013 to the Scottish Parliament from the Financial Scrutiny Unit provided an overview of the decision making structures of local authorities in Scotland. The briefing included the structure and role of decision making committees, developments in governance and four case studies of local authorities, one of whom was Scottish Borders Council. The table below highlights that Scottish Borders Council operated more committees than any of the other case study Councils whilst having a significantly lower number of Councillors (with the exception of the Orkney Islands).

FSU report to Scottish Parliament December 2013 - How Do Local Authorities Make Decisions?

	Fife	Glasgow City	Orkney Islands	Scottish Borders
Population (2012)	366,200	595,100	21,500	113,700
Councillors	78	79	21	34
Governance	Executive Committee	Executive Committee	Full Council	Executive Committee
Area committees & forums	7	21	-	5
Policy groups	6	5	-	-
Other committees & groups	11	18	16	43
All committees and groups	24	44	16	48

- 4.2 In terms of other local authorities in Scotland, there are 32 Councils, from Aberdeen City to West Lothian. Each local authority has its own distinct identity, with the number of Councillors ranging from 18 in the

smallest authorities to 85 in the largest. The type of decision making structure each local authority has over the years has changed and developed to meet their own particular local needs. An assessment of other Councils' decision making structures shows that 8 authorities do have a structure which more closely resembles a Service committee structure. There are 7 authorities with an Executive/Scrutiny structure and 17 with a hybrid of the two structures. The remit of similarly named committees in different local authorities varies widely. There are over 700 committees, sub committees, boards and panels operating across all authorities in Scotland. Since 2001 there has been a huge change in the economic climate, the technology available, closer working with partners and communities, and an impact of national and international events on local authorities. It is unlikely that a wholly traditional service committee structure would be adaptable enough to look corporately across the Council, without risking a return to service "silos".

- 4.3 The number of committees/subs/boards/panels which each authority operates also varies, with the smallest number being 11 and the largest (SBC) 53. However, the number of committees in Scottish Borders Council does include 9 separate Common Good Fund Sub-Committees and 6 Trust Sub-Committees, which is much higher than other authority areas, along with 11 Ward Advisory Groups which were never enacted. The proposals in this report would reduce this number to 39.

5 MOVING FORWARDS – ISSUES FOR CONSIDERATION

- 5.1 In April 2017 the Council refreshed its Corporate Structure. This sought to ensure that the quality of corporate working was further improved and that resources were directed at a strategic level to the key priorities for the future. A particular emphasis was placed on localities.
- 5.2 In moving to a more sustainable decision making structure that meets the needs of the organisation into the future the Council needs to take account of its increasing role of working with other key public, voluntary and private bodies to ensure that high quality efficient and effective services are provided across the Scottish Borders. This is evidenced by the engagement with our partners in the business community, Registered Social Landlords, NHS Borders, Police, Fire & Rescue, Borders College, and the Voluntary Sector through the Community Planning Strategic Board; and the Health and Social Care Integration Joint Board. Working together, either on a statutory or mutually agreed partnership basis is likely to become the norm moving forward. There are significant strategic changes which have taken place in recent years.
- 5.3 The Council is facing a number of challenges over the next few years, in terms of resources, level of service provision, partnership working, and community engagement. Members need to feel confident that they are being given the right information to allow them to make strategic decisions which Officers can use to maximise operational service provision. The recent change in the corporate structure of the Council demonstrates a cross-cutting approach to service provision, not just within the Council, but in conjunction with other public bodies and organisations both nationally and in the Scottish Borders. Any proposed new committee structure will need to take this changed way of working into account.

6 A NEW COMMITTEE STRUCTURE/NEW SCHEME OF ADMINISTRATION

- 6.1 In designing a proposed new committee structure for consideration, cognisance has been taken of –
- Members' intrinsic role as guardians of democracy
 - The strategic – as opposed to operation – decision-making role of Members
 - The challenges facing the Council and the Borders community now and in the foreseeable future
 - A need for independent scrutiny or review of decisions
 - The new corporate structure
 - The need to ensure all parties are connected to the work of the whole organisation and not just a particular specialised area
 - The role of Members not just as committee members but taking account of their role as Ward members and their work with other organisations within and out-with the Borders community.
- 6.2 A new Scheme of Administration is attached as an Appendix to this report, which highlights the suggested changes to the existing Scheme. These suggested changes within that Scheme are detailed in the following paragraphs.
- 6.3 Call-in procedure (p.6 paragraph 11 of the Appendix)
It is suggested that the need for the Clerk to include a paragraph in a report to the Executive Committee which is exempt from call-in is removed as the reasons for exemption would apply anyway.
- 6.4 Scottish Borders Council (p.14 of the Appendix)
It is suggested that the Council remit is amended to include the annual approval of the Local Policing Plan and the Local Fire and Rescue Services Plan, as per the Police and Fire Reform (Scotland) Act 2012. It is also proposed that the approval of local bye-laws is transferred from Locality Committees to full Council as they normally cover more than one area.
- 6.5 LLP Strategic Governance Group/Trading Operations Sub-Committee (p.21 of the Appendix)
It is suggested that this Group merges with the Trading Operations Sub-Committee so it covers the LLP (SB Cares) and SB Contracts, and changes its name to the Major Contracts Governance Group. It is also proposed that this Group has an overview, as required, of Agreements with other Trusts, Outside Bodies, etc., which are providing services on behalf of the Council, and also an overview, as required, on any other significant contracts.
- 6.6 Executive Committee (p.29 of the Appendix)
It is suggested that approval of local management rules and street naming and numbering would be considered by the Executive Committee, after consultation with local Members and Area Partnerships (the latter being consulted if the matter is contentious). This is being proposed in conjunction with changes to the Locality Committees/Area Partnerships as detailed in paragraph 6.10.
- 6.7 Audit and Scrutiny Committee/Petitions and Deputations Committee (p.33 of the Appendix)
It is suggested that the Petitions and Deputations Committee is discontinued. Since its inception in 2012, the Committee has met on

only 12 occasions. The petitions and deputations process can be a function addressed by the Audit and Scrutiny Committee and this is recommended as the most appropriate way forward.

6.8 Members' Sounding Board: Political Management Arrangements (p.50 of the Appendix)

The Members' Sounding Board has met very infrequently (it last met in February 2014) and is used when cross-party political input is required either on a Consultation from UK or Scottish Government or other Body. It is proposed that authority is delegated to the Chief Executive, in consultation with the Convener, to convene this Board as necessary in future.

6.9 Ward Project Advisory Groups (p.51 of the Appendix)

These Groups have never met since their inception, as information was provided to Members either in private briefings or through various Committees. It is proposed therefore to remove the Ward Project Advisory Groups, with briefing sessions held for Members on a regular basis and greater use made of the Members Electronic Bulletin to keep them updated on Council matters/projects.

6.10 Locality Committees/Area Partnerships (p.57 of the Appendix)

- (a) It is proposed that the Locality Committees change their constitution, remit and focus to one of community engagement and involvement. With the greater emphasis on community empowerment, participative budgeting, and locality planning, it is proposed to change Locality Committees to Area Partnerships. Their main aim would be to form a community engagement platform to develop priorities and outcomes for the area. They would act as a community consultation body, not just for the Council but other service providers in the area, becoming a strong voice for the area.
- (b) It is proposed that Community Councils be represented on Area Partnerships at a ratio of 1 representative per 6 Community Councils (i.e. Berwickshire = 3, Cheviot = 2, Eildon = 3, Teviot & Liddesdale = 2; Tweeddale = 2). In addition, a representative from the Scottish Fire and Rescue Service would be included in the membership. Invitations to attend and participate in meetings when there are relevant agenda items will be sent out to all Community Councils, Community Planning partners and representatives of any other Community Group or local body as appropriate. The basis and format of these meetings would change to one of discussion and debate. Formal committee reports would not be considered by Area Partnerships, but briefing information would be sent out with the agenda with questions or areas for open debate at the meeting. A programme of business would be set up for each Area Partnership which would likely meet about 5 times per year, to take account of holiday periods. Further consultation is required with the Community Planning Partners and the Locality Committee Chairmen on how this will be managed going forward before a final membership and remit is brought back to Council for approval.
- (c) With this proposed move of Area Partnerships to a community engagement platform, it is proposed to delegate authority to the Service Director Assets and Infrastructure to make the decisions on local traffic management schemes and traffic orders, after consultation with local Members and the Area Partnerships for major changes. Any decisions on street naming and numbering and Management Rules would be taken by

the Executive after consultation with local Members (and the Area Partnerships for major matters). The aim is for the Area Partnership to act as an all-encompassing community consultation body.

7 IMPLICATIONS

7.1 Financial

It is not anticipated that there will be any increased costs attached to the recommendations contained in this report.

7.2 Risk and Mitigations

There is a reputational risk to the Council if it does not review of its decision making structure. It is through committees that the decisions of Scottish Borders Council are made. These decisions affect the lives of every person living in the Scottish Borders and it is therefore critical that the infrastructure around that decision making process is as effective as possible to ensure that the most informed and the best possible decisions are made.

7.3 Equalities

No Equalities Impact Assessment has been carried out on the new Scheme of Administration although a checklist was completed and this confirmed that the proposals set out in the report do not have any potential adverse impact on any particular group of clients, residents or staff; nor do they discriminate on the basis of age, disability, gender, race, sexual orientation, pregnancy and maternity or religion and belief.

7.4 Acting Sustainably

No economic, social or environmental effects are anticipated from the proposals contained in this report.

7.5 Carbon Management

There should be no impact on the Council's carbon emissions from the proposals contained in this report.

7.6 Rural Proofing

A rural proofing checklist has been completed and it is anticipated there will be no specific impact on the rural area from the proposals contained in this report.

7.7 Changes to Scheme of Administration or Scheme of Delegation

Changes will be required to the Scheme of Administration if the proposals in this report are accepted.

8 CONSULTATION

- 8.1 Consultation has taken place with members of the Council's Corporate Management Team, the Chief Legal Officer and the Chief Officer Audit & Risk and their comments received are incorporated in the report.

Tracey Logan
Chief Executive

Approved by

Signature

Author(s)

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Background Papers: Nil

Previous Minute Reference: Scottish Borders Council, 30 August 2012

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jenny Wilkinson can also give information on other language translations as well as providing additional copies.

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