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# **INITIAL AMENDMENTS TO THE INTERIM SCHEME OF ADMINISTRATION AND CHANGES TO STANDING ORDERS**

**Report by Acting Chief Executive**

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## **SCOTTISH BORDERS COUNCIL**

**25 August 2022**

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### **1 PURPOSE AND SUMMARY**

- 1.1 This report proposes initial changes to the Interim Scheme of Administration and changes to Standing Orders, with a further report to be presented to Council in September 2022.**
- 1.2 At its meeting held on 26 May 2022, Scottish Borders Council agreed to the establishment of a Cross-Party Working Group to work on proposals for changes to the Interim Scheme of Administration. The Working Group has had wide ranging discussions and its work continues but included in this report are the initial changes being proposed so far.
- 1.3 Section 4 of the report contains the proposed changes to the Interim Scheme of Administration and the details are contained in the Appendix. There are also changes being proposed to Standing Orders to amend the publication dates of agendas/papers for meetings from seven days prior to a meeting to ten days; and to further widen debate at meetings on Motions.
- 1.4 Section 6 of the report contains further proposals from the Working Group covering a pilot change of timing for a Council meeting; potentially allowing members of the public to submit questions for a Council meeting in a similar way to those submitted by Elected Members; a review of the Employee Council; and the future removal of the Community Planning Strategic Board as a Council committee linked to the current review of the Community Planning Partnership.
- 1.5 Section 7 of the report gives details of which committee meetings should be held in a blended way (in the Chamber at Council HQ and online via Microsoft Teams) and which should be, for the main part, held wholly online (via Microsoft Teams) to take account of the current climate emergency and to assist with greater public engagement. The public business for these meetings will continue to be livestreamed and recorded. There are no known external venues out-with Council HQ at the moment with the technology/capacity to livestream or record such meetings, so any physical meetings held out-with HQ cannot currently be livestreamed or recorded.

## **2 RECOMMENDATIONS**

### **3.1 I recommend that the Council agrees:**

#### **(a) to make the following changes to the Interim Scheme of Administration (as detailed in the attached Appendix):**

- (i) Section II, Provisions applicable to all Committees – amend the wording in the second sentence to add clarity, so it reads: “It shall be delegated to the Chief Executive or the Clerk to the Council to make the final determinations, in consultation with the Convener (Council) or Leader (Executive) or appropriate Chair, on whether or not an item of business should be included on an agenda.”**
  
- (ii) Section III – Council Sub-Committees (Major Contracts Governance Group) – the functions to monitor the performance of Live Borders be moved from the Executive Committee to this Group and the name of the Group is changed to the External Services/Providers Monitoring Group to better reflect that remit;**
  
- (iii) Section IV – Executive Committee and Education Performance Sub-Committee –**
  - The Leader will chair all meetings of the Executive Committee**
  - The removal of the Education Performance Sub-Committee**
  - The establishment of an Education Sub-Committee of the Executive**
  - That the current teacher, parent council, and pupil representatives on the Executive Committee move to the Education Sub-Committee**
  - The religious representatives become non-voting members of the Education Sub-Committee, in line with the other non-voting members of the Sub-Committee**
  - The Education functions in the Executive Committee and the functions of the Education Performance Sub-Committee be moved to the Education Sub-Committee**
  - Seven Elected members are appointed to the Education Sub-Committee, namely the Executive Member for Education & Lifelong Learning (Chair), the Executive Member for Developing Our Children & Young People, two other members of the Administration, the Champion for Opportunities for Young People, the Champion for Education & Young People and one other member not on the Administration;**
  
- (iv) Section V – Audit and Scrutiny Committee –**
  - The removal of the Audit & Scrutiny Committee**
  - The establishment of an Audit Committee, comprising 10 Elected Members and two non-voting members from an external source**

- **The establishment of a Scrutiny & Petitions Committee, comprising 10 Elected Members**
  - **The audit and risk functions of the Audit & Scrutiny Committee move to the Audit Committee**
  - **The scrutiny and petitions/deputations functions of the Audit & Scrutiny Committee move to the Scrutiny & Petitions Committee;**
- (b) that a further report be brought back to the next meeting of Council to allow Members to consider a proposal to invite a number of service users to attend - as non-voting members - those meetings of the External Services/Providers Monitoring Group for those meetings where Live Borders performance is being considered;**
- (c) to appoint the existing Elected Members on the Audit & Scrutiny Committee to both the Audit Committee and the Scrutiny & Petitions Committee;**
- (d) to amend the following Standing Orders:**
- (i) Standing Order No. 8 to read: "Notice of the time and place of a meeting of the Council, and copies of any written reports to be considered, shall be given by the proper officer not later than ten days before the meeting by being left at or sent by post or communicated by e-mail to the usual place of residence of every member of the Council.";**
  - (ii) Standing Order No. 33 to read: "A motion to which no amendment is moved may be the subject of debate at the sole discretion of the Chair, if the subject matter is considered by the Chair to be of special interest to the meeting, otherwise the motion will be declared carried." ;**
  - (iii) Standing Order No. 35 to read: "At the discretion of the Chair, a member may address the Council more than once on any motion or amendment. A member may speak to a Point of Order or in explanation of some material part of a speech made by them which they believe to have been misunderstood or in reply to a question addressed to them through the Chair."**
- (e) to amend the start time of the October or November meeting of Scottish Borders Council from 10am to 2pm and to review that impact thereafter;**
- (f) that officers bring a report to the next meeting of Council for consideration of a process for the inclusion of questions from the public at Council meetings;**
- (g) that officers undertake a review of the purpose and function of the Employee Council and a report brought back to Council in due course on the most appropriate vehicle for future employee**

**engagement, including whether the Employee Council should remain within the Scheme of Administration in future;**

- (h) in principle to the removal of the Community Planning Strategic Board as a formal committee of Council, once the current review of the Community Planning Partnership is completed;**
- (i) that each Area Partnership considers holding an annual event to showcase its work and the outcomes of the projects which it has grant-funded;**
- (j) that the following Committee meetings are held in a blended way (with Members/Officers/the public attending in the Chamber at Council HQ or online via Microsoft Teams): Scottish Borders Council; Executive Committee; Civic Government Licensing Committee; Planning & Building Standards Committee; Local Review Body; Pension Fund Investment & Performance Sub-Committee; Staffing Appeals Committee; Education Appeals Committee; Asset Transfer Appeals Committee; and Scottish Borders Licensing Board;**
- (k) that the following meetings are held wholly online via Microsoft Teams: all Common Good Fund Sub-Committees; William Hill Trust; External Services/Providers Monitoring Group; Education Sub-Committee; Audit Committee; Scrutiny & Petitions Committee; Sustainable Development Committee; Pension Fund Committee; JCG: Staff; JCG: Teachers; Police, Fire & Rescue, and Safer Communities Board; Community Planning Strategic Board; Area Partnerships; Local Licensing Forum; Police CAT Members Oversight Group; Anti-Poverty Members Reference Group; Community Council Scheme Review Working Group; and Regional Economic Strategy Reference Group; and**
- (l) to note that the Chair of a committee retains the option to request meetings be held in person, taking account of travel for Members, Officers and other attendees, and also the potential impact on public engagement and attendance.**

### 3 BACKGROUND

- 3.1 At its meeting held on 26 May 2022, Scottish Borders Council agreed to some changes to the Scheme of Administration to take account of the new Portfolio holders and the consequential impact on committee memberships, and to the establishment of a Cross-Party Working Group to work on proposals for further changes to the Scheme. The Working Group comprises Councillors McAteer (Chair), Cochrane, Jardine, Linehan, Moffat, Pirone, Robson, Rowley, Sinclair and Thornton-Nicol and has now met on 5 occasions.
- 4.2 The Working Group has had wide ranging discussions, covering among other points, the committee structure, membership of committees, interaction with the Council Plan, Member and community engagement, debate, the role of Elected Members Champions and Portfolio holders, etc. The main aim of these discussions was to establish what worked well and what could be even better, which included the business being considered at meetings, the publication of papers, timing of meetings, physical and online venues. The work of the Group continues but included in this report are the initial changes being proposed to date.

### 4 PROPOSED INITIAL CHANGES TO THE INTERIM SCHEME OF ADMINISTRATION

- 4.1 After due consideration, the Cross-Party Members Working Group is now proposing a number of initial changes to the Interim Scheme of Administration, which are also included in the Appendix to this report, highlighted in red (removed) and blue (added).

#### **Section II – Provisions applicable to all Committees**

- 4.2 Paragraph 15 of this section refers to items for agendas and reports for committees. It is proposed to change the wording in the second sentence to add clarity, so it would read: "It shall be delegated to the Chief Executive or the Clerk to the Council to make the final determinations, in consultation with the Convener (Council) or Leader (Executive) or appropriate Chair, on whether or not an item of business should be included on an agenda."

#### **Section III – Council Sub-Committees (Major Contracts Governance Group)**

- 4.3 It is proposed that the Major Contracts Governance Group has a scrutiny and performance evaluation remit for not only SB Contracts and CGI but also Live Borders. This will allow specific focus on those significant Council services either being provided to external customers or those services which are being provided on behalf of the Council by an external provider through contract, Service Level Agreement or Memorandum of Understanding. Thus the current performance monitoring of Live Borders would move from the Executive Committee to the Major Contracts Governance Group. To better reflect these changes, it is also proposed that the name of the Group is changed to the External Services/Providers Monitoring Group. Meetings of the Group are also likely to focus on only one service at a time so that each meeting is not too long, which will mean an increase in the number of

meetings of the Group. For those meetings of the Group which would be considering Live Borders performance, it is proposed that a number of service users be invited to attend as non-voting members and a further report will be brought to Council with details of this.

#### **Section IV – Executive Committee and Education Performance Sub-Committee**

- 4.4 It is proposed that the Leader chairs all meetings of the Executive Committee which will allow the relevant Portfolio holders to fully participate in debates at themed meetings. The Working Group is considering themes for Executive meetings/agendas in conjunction with those in the Council Plan and will provide further proposals in due course for any changes. As proposed in paragraph 4.3, the remit of the Executive Committee regarding Live Borders will be moved to the External Services/Providers Monitoring Group.
- 4.5 It is also proposed that to allow more substantial monitoring of education matters, that the Education Performance Sub-Committee is deleted and a new Education Sub-Committee of Executive is established, with a cross party representation. The current non-Elected Members of the Executive Committee would become non-voting members of the Education Sub-Committee. This would include the current religious representatives who would move from voting to non-voting members, to mirror the status of the other non-Elected Members on the Committee. Education matters currently included in the remit of the Executive and Education Performance Sub-Committee would transfer to the new Education Sub-Committee. Where HMIe reports, educational Care Inspectorate reports and internal school reviews items were being considered by the Sub-Committee, the teacher, parent teacher and pupil representatives would be excluded from the meeting. It is suggested that the constitution of the new Sub-Committee would comprise seven Elected Members, being:
- Executive Member for Education & Lifelong Learning (Chair)
  - Executive Member for Developing Our Children & Young People
  - Two other members of the Administration
  - Champion for Opportunities for Young People
  - Champion for Education & Young People
  - One other member not on the Administration
- And a further nine non-voting members:
- Three persons interested in the promotion of religious education appointed in accordance with Section 124 of the Local Government (Scotland) Act 1973 as amended by Section 31 of the Local Government Etc. (Scotland) Act 1994
  - Two teachers in the employment of the Council
  - Two representatives from Parent Councils, one from the Primary sector and one from the Secondary sector
  - Two pupil representatives

#### **Section V – Audit and Scrutiny Committee**

- 4.6 It is proposed that the Audit & Scrutiny Committee is split into two separate committees, namely an Audit Committee and a Scrutiny & Petitions Committee, each with ten Elected Members, with the functions moving to the relevant Committee. The two additional members appointed from an external source as non-voting members would move to the Audit Committee. Members may wish to consider whether the existing Elected

Members on the Audit & Scrutiny Committee would sit on both the new Committees for the time being or make changes at this point. Details of the new Committees are contained in the Appendix.

## **5 AMENDMENTS TO STANDING ORDERS**

5.1 As part of its discussions, the Working Group also gave consideration of the amount of time allowed for Members to read reports once they are published and give due thought to their content. To assist in this, it is proposed that Standing Order No. 8 be amended to change the publication date of agendas/reports from 7 to 10 days prior to a meeting. There may still be the occasion where a report is not yet finalised so will need to come out as a late paper but this should not happen on a regular basis. Thus Standing Order No. 8 would read: "Notice of the time and place of a meeting of the Council, and copies of any written reports to be considered, shall be given by the proper officer not later than ten days before the meeting by being left at or sent by post or communicated by e-mail to the usual place of residence of every member of the Council."

5.2 Following discussion around debate at Council when Motions are being considered, the Working Group is now proposing a change which gives the Chair the discretion to allow debate of a Motion when no amendments are being proposed. There is not an automatic right for Members other than the Proposer and Seconder to speak if no amendment is being proposed, unless the Chair approves otherwise. Thus, Standing Order No. 33 would change from:

(a) "A motion to which no amendment is moved will be declared carried and will not be the subject of debate except that the Chair may, at their sole discretion, decide to allow the mover and the seconder of the motion to speak in explanation, if the subject matter is considered by the Chair to be of special interest to the meeting. No other speeches will be allowed."

To:

(b) "A motion to which no amendment is moved may be the subject of debate at the sole discretion of the Chair, if the subject matter is considered by the Chair to be of special interest to the meeting, otherwise the motion will be declared carried."

And Standing Order No. 35 would change from:

(c) "A member shall not address the Council more than once on any motion or amendment. However, the mover of an original motion may reply and in their reply shall confine themselves strictly to answering matters raised by previous speakers, with the following exception:- A member may speak to a Point of Order or in explanation of some material part of a speech made by them which they believe to have been misunderstood or in reply to a question addressed to them through the Chair."

To:

- (d) "At the discretion of the Chair, a member may address the Council more than once on any motion or amendment. A member may speak to a Point of Order or in explanation of some material part of a speech made by them which they believe to have been misunderstood or in reply to a question addressed to them through the Chair."

## **6 FURTHER PROPOSALS**

- 6.1 The Working Group also looked at the timing of the meetings of full Council, and considered whether a change of the start time of the meeting would allow for greater public interest in either attending or watching the livestream. However, while it may be more convenient for some if meetings were held either in the afternoon or early evening, this would not suit everyone and consideration would need to be made of the length of the meeting should it start later in the day. It is therefore proposed that to test this, the time of either the October or November meeting of full Council will move to a 2:00 pm start. Further consideration of the timing of these meetings will be made by the Working Group thereafter, taking account of whether the meeting ran more smoothly and there was greater public engagement.
- 6.2 Consideration was also given to direct public engagement at Council meetings. At the moment, Elected Members submit questions to Executive members for response at these meetings and the Group discussed whether members of the public should also be able to submit questions in a similar way. This could be a way forward and a different approach but it would need to be a controlled process, with criteria for questions and limits to the number of public questions at each meeting. It is therefore proposed that officers do further work on this and bring a report to the next Council meeting with details of how this process could work.
- 6.3 With regard to the Employee Council, it is proposed that a review of the purpose and function of the Employee Council is undertaken and a report brought back to Council in due course on the most appropriate vehicle for future employee engagement, including whether the Employee Council should remain within the Scheme of Administration in future.
- 6.4 There is currently a review underway of the Community Planning Partnership in the Scottish Borders, with the Community Planning Strategic Board currently a formal committee of this Council. All formal committees of Council are governed by specific legislation which places limits on the membership and chairs of such committees, as well as voting rights. It is proposed that in future the Community Planning Strategic Board is removed as a Council committee once the review of the Community Planning Partnership is completed. This will give greater freedom to include statutory and non-statutory partners in the governance of the Partnership, as well as more community engagement.
- 6.5 While Area Partnerships are currently linked to the Community Planning Partnership, and are also subject to review at the moment, further work is needed to get more people and organisations to engage. It is not proposed at this stage to make any changes to Area Partnerships, although it is proposed that each Area Partnership considers holding an annual event to



showcase its work and the outcomes of the projects which it has grant-funded. A further report will be brought to Council in due course on the future of Area Partnerships, taking account of the Council Plan, community planning and place making. It should also be noted that while no changes are being proposed to the membership or voting rights at Area Partnerships, when matters are being considered at meetings which may impact on areas out-with the locality boundary, then consideration should be given to inviting members from the neighbouring Area Partnership to participate in such a meeting (although with no voting rights at that meeting).

## **7 MEETING VENUES/BLENDED/ONLINE**

7.1 The Working Group had discussions about which committee meetings would be best suited to either blended or online meetings. This followed on from the decision of Council at its meeting on 26 May 2022 that blended meetings of Council committees would become the default position, once the functionality of the technology in the Council Chamber had been successfully tested. There are still some issues with the technology which it is hoped to have resolved in the next few weeks. Being mindful of the current climate emergency and to assist a wider public engagement in meetings without the need for travel, there are a number of committees which lend themselves to wholly online meetings. There is still the option for the Chair to request meetings be held in person but care needs to be taken over travel for Members, Officers and other attendees, and also the potential impact on public engagement and attendance. However, the proposal is for the following:

- (a) Blended meetings – Scottish Borders Council; Executive Committee; Civic Government Licensing Committee; Planning & Building Standards Committee; Local Review Body; Pension Fund Investment & Performance Sub-Committee; Staffing Appeals Committee; Education Appeals Committee; Asset Transfer Appeals Committee; Scottish Borders Licensing Board
- (b) Wholly online meetings – all Common Good Fund Sub-Committees; William Hill Trust; Major Contracts Governance Group; Education Sub-Committee; Audit Committee; Scrutiny & Petitions Committee; Sustainable Development Committee; Pension Fund Committee; JCG: Staff; JCG: Teachers; Police, Fire & Rescue, and Safer Communities Board; Community Planning Strategic Board; Area Partnerships; Local Licensing Forum; Police CAT Members Oversight Group; Anti-Poverty Members Reference Group; Community Council Scheme Review Working Group; Regional Economic Strategy Reference Group.

7.2 While consideration was given to moving some meetings of Scottish Borders Council out-with HQ and holding these physically in different parts of the Borders, the Working Group will give further thought to this in due course, taking account of climate impact and cost. There are no known external venues out-with Council HQ at the moment with the technology/capacity to livestream or record such meetings.

- 7.3 Where committee meetings are either held online or blended (in the Council Chamber at HQ), then the public business will continue to be livestreamed and recorded.

## **8 IMPLICATIONS**

### **8.1 Financial**

There are no costs attached to any of the recommendations contained in this report and any increase in the number of meetings can be met from existing budgets. Any increase in the number of Members and officers attending blended meetings in the Chamber or physical meetings will lead to increased costs in travel which are not included in current budgets.

### **8.2 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 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. Members are keen to further enhance the democratic process and the Working Group will continue to consider further changes to the Interim Scheme of Administration.

### **8.3 Integrated Impact Assessment**

No Integrated Impact Assessment has been carried out on the Interim Scheme of Administration although it is anticipated that there are no adverse equality issues.

### **8.4 Sustainable Development Goals**

The changes to the Scheme of Administration will not have any direct impact on the UN Sustainable Development Goals.

### **8.5 Climate Change**

The changes to the Scheme of Administration will not have any direct impact on climate change, although any increase in face to face meetings may increase travel across the region.

### **8.6 Rural Proofing**

There is no specific impact on the rural area from the proposals contained in this report.

### **8.7 Data Protection Impact Statement**

There are no personal data implications arising from the proposals contained in this report.

### **8.8 Changes to Scheme of Administration or Scheme of Delegation**

Changes are needed to the Scheme of Administration and these are detailed in the report.

## 9 CONSULTATION

- 9.1 The Acting Chief Financial Officer, the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director People Performance & Change, and Corporate Communications have been consulted and any comments received have been incorporated into the report.

### Approved by

**David Robertson**

**Acting Chief Executive**

### Author(s)

Name	Designation and Contact Number
Jenny Wilkinson	Clerk to the Council, Tel: 01835 825004

**Background Papers:** N/A

**Previous Minute Reference:** Scottish Borders Council, 26 May 2022

**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.

Contact us at Jenny Wilkinson, Democratic Services, Council HQ, Newtown St Boswells, Melrose, TD6 0SA.

Tel: 01835 825004

Email: [jjwilkinson@scotborders.gov.uk](mailto:jjwilkinson@scotborders.gov.uk)