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**Report to Council**

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**Date of Meeting: 16th August 2012**

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**Subject: Corporate scrutiny arrangements**

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**Report by: Director of Finance and Corporate Services**

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**1.0 Purpose**

The purpose of this report is to further clarify and develop the Council's scrutiny framework as managed through the Resources and Audit Committee and service committees. In particular, the report focuses on the establishment of a protocol to facilitate the scrutiny of decision making and signposts a number of new initiatives to strengthen and better support elected members in discharging their scrutiny roles.

**2.0 Recommendations**

Council is asked to:

- 2.1. endorse the underpinning principles set out in paragraph 4.4;
- 2.2. note the plans to hold a risk based planning workshop with the Resources and Audit Committee members following recess;
- 2.3. approve the proposed authority of the Convenor of Resources and Audit Committee to request service committee convenors to attend the Resources and Audit Committee, detailed in paragraph 4.8;
- 2.4. approve the call-in process set out at Appendix B;
- 2.5. approve the call-in criteria proposed in paragraph 4.12 of the report;
- 2.6. agree the call-in operating parameters set out in paragraph 4.13;
- 2.7. agree the exemption of urgent decisions as defined by paragraph 4.14;
- 2.8. note the proposed developments to further improve the Council's scrutiny arrangements set out in paragraph 5.2.

**3.0 Background**

3.1. At its meeting on the 1st June 2012, Council established new political decision making and scrutiny arrangements. The structure now comprises three service committees in addition to Council, a Resources and Audit Committee and the pre existing statutory committees. The revised structure is set out in Appendix A.

3.2 The changes approved by Council aim to strengthen and enhance arrangements in a number of ways, including:

- enhancing and embedding the scrutiny role of all elected members and not just those on the designated scrutiny committee
- refining scrutiny arrangements and allowing for more in depth scrutiny of service performance
- establishing new arrangements for the scrutiny of decision making through the Resources and Audit Committee call in arrangements
- improving forward planning for both Council and committee agenda
- formalising the roles of elected members in respect of policy and strategy formulation through service committees rather than through ad hoc briefings and working groups
- providing a strong emphasis on resourcing matters such as finance, capital investment and staff through the Resources and Audit Committee
- providing a clear separation of responsibilities between elected member policy and strategy formulation roles in the service committees and ratification of these through Council.

3.3 It is evident from the new arrangements that a key feature of the changes approved by Council is the potential to facilitate improved scrutiny across the range of the Council's activity.

3.4 This paper, and the direction it sets out, aims to develop the Council's scrutiny arrangements for the future and builds on the review and improvement plan established by the former Scrutiny Committee. Many of the measures and underpinning principles set out address matters raised in the previous review.

#### **4.0 Developing effective scrutiny arrangements**

4.1 Effective scrutiny is the way in which elected members ensure that the people of Clackmannanshire are receiving the best possible services as well as best value from the Council. Effective scrutiny acts as a critical friend and is at the heart of sound governance arrangements. It also requires openness and transparency to deliver real improvements in the way that the Council does its business.

4.2 Scrutiny can also provide opportunities for community involvement and democratic accountability. Engagement with service users, partners and the public can help to improve the legitimacy, quality and impact of recommendations arising from scrutiny review and challenge.

- 4.3 Effective scrutiny provides the opportunity to constructively challenge elected members and officers in order to make evidence based recommendations. It also provides the opportunity for scrutinising members to represent the views of local constituents and to provide community leadership.
- 4.4 Scrutiny in Clackmannanshire should aspire to be:
- member-led;
  - consensual and based on non-party political principles;
  - focussed on the needs of service users and the public
  - evidence based
  - built on a culture of constructive challenge.
- 4.5 Scrutiny committees may undertake external scrutiny of other organisations that are engaged in the provision of local services. External scrutiny can add real value, for instance by investigating areas of public concern or where local service delivery needs to be improved. It can also strengthen effectiveness, as well as existing arrangements and relationships, where services are delivered in partnership. Developing these arrangements has been identified as an improvement priority of the Convenor of the Resources and Audit Committee.
- 4.6 The establishment of a well planned and manageable scrutiny workplan for the Council is critical to delivering positive impact and improvement from the scrutiny work undertaken. The workplan should link to corporate priorities, key risks and contribute to service improvement. The Council needs to ensure that it has in place effective Forward Planning arrangements to establish the core scrutiny plan and this will be augmented by a programme of more in depth scrutiny reviews. To facilitate the selection of topics, a risk based planning workshop will be held with members of the Resources and Audit Committee as soon as practicable after the summer 2012 recess. The workshop will build on the approach introduced last year which was reported to Council in June 2011.
- 4.7 The three service committees play a significant and complementary scrutiny role to that of the Resources and Audit Committee. This role can be broadly classified in three main areas:
- scrutiny of financial performance through ongoing review and challenge of service financial information
  - scrutiny of service performance through ongoing review of service performance based on the covalent system's recording of key milestones, results and risks
  - consultative scrutiny of new policies and strategies or significant changes to existing policies at an early stage (this will rely on effective Forward Planning arrangements and will require further development to become fully effective (section 5).

- 4.8 The Convenor of the Resources and Audit Committee is proposed to have the authority to request Service Committee Convenors to attend the Resources and Audit Committee to answer questions about service performance, new strategy and plans. This is part of ensuring that there is effective scrutiny of corporate and service performance, a key part of the resources and Audit Committee remit. Service Committee convenors are of course, welcome to attend Resources and Audit Committee meetings but otherwise regular attendance is not expected.
- 4.9 The scrutiny remit of the Resources and Audit Committee was set out in the Council report of 1st June. In summary, this comprises:
- scrutiny of financial and service performance of Finance and Corporate Services (acting as the Resources service committee)
  - scrutinising corporate performance, including corporate financial performance and governance against the Council's Corporate Plan and Single Outcome Agreement priorities
  - scrutiny of decision making based on agreed call-in procedures (see below).

The report also indicates that the Resources and Audit Committee will assume the audit committee functions of the former Scrutiny Committee.

- 4.10 From time to time, a decision may be taken by Council or Chief Officers which causes such concern that some councillors believe that the decision should be changed. Call-in is intended to be used in exceptional circumstances for decisions believed to be contrary to the Council's decision making principles and/or governance. It is important that arrangements are straightforward and clear to ensure that they can be applied consistently and with ease, should they be required. No more than 3-4 decisions would be anticipated to be called in during a year.
- 4.11 Appendix B sets out the recommended process for call-in. The Monitoring Officer will determine whether a call in request is eligible in the first instance. Where the Monitoring Officer determines that a call-in request is eligible, the decision is immediately suspended pending the outcome of the Hearing process. The Hearing arrangements are the responsibility of the Convenor of the Resources and Audit Committee.
- 4.12 The Council's arrangements need to be underpinned by criteria to guide both elected members and officers in determining whether a request is eligible for calling in to the Resources and Audit Committee for further examination. The following criteria are proposed:
- The decision making Committee/Council has failed to consult relevant people or bodies in contravention of defined Council policies or procedures/ governance arrangements.
  - The decision is contrary to the Council's budget or policy framework.

- The decision is inconsistent with an existing Council policy.
- The decision maker did not take into account relevant considerations.
- The decision is contrary to a previously agreed decision made in full Council.
- The decision is inconsistent with a previous recommendation that has been accepted by the Council and that recommendation has not been superseded by a subsequent decision.
- The decision was not taken in accordance with the Council's approved Scheme of Delegation.

The Resources and Audit Committee is operating under delegated powers. It does not have executive authority. Where the Committee does not achieve a majority decision, the Committee findings and conclusions will, therefore, require to be reported back to Council for a final ruling. This information will be presented by the Resources and Audit Committee Convenor.

4.13 The above criteria, if approved, also need to be established within clear operating parameters. To provide this clarity, it is recommended that:

- Decisions can only be reviewed once.
- Day to day management issues cannot be included.
- Urgent and/or key decisions should not be called-in or delayed (see paragraph 4.14).
- The request to call-in a decision must be made by a requisition signed by a minimum of four members (committee quorum figure) no later than noon on the third working day following (and not counting) publication of the decision.
- The signed requisition should be delivered to the Monitoring Officer within the above timescale.
- The request must specify reason for call-in and evidence of breach of a principle of decision making.
- The request should include details of witnesses and further information required.
- All appropriate information will be provided to the Resources and Audit Committee five working days in advance of the date of the Hearing.
- A decision which has been "Called in" will be placed on the agenda for the next meeting of the Resource and Audit Committee or be reviewed at a special meeting set up at the request of the Convenor .

4.14 There are some instances where the call-in procedure will not apply. These are primarily cases which require urgent decisions. In such exempt cases, the Monitoring Officer in consultation with the Chief Executive may agree that a

decision cannot be called in by the Resources and Audit Committee on the grounds of urgency, if the call-in process could otherwise:

- Prevent a final decision being made by the required date; or
- Seriously prejudice the Council's position in relation to persons or events external to the Council; or
- Prejudice the Council's negotiation position with trade unions or a third party.

Where this exemption applies, the Monitoring Officer will provide the reasons in writing to the Convener of the Resource and Audit Committee.

## **5.0 Resources and Audit Committee Improvement priorities**

5.1 A significant amount of effort has been invested in developing new structures and arrangements to enhance and more firmly embed the Council's scrutiny arrangements. There is, however, more work to be done to maximise the impact of, and appropriately support these arrangements for the future.

5.2 The Convener of the Resources and Audit Committee is keen to develop a strong focus on continuous improvement, including ongoing review of the effectiveness of the Committee's operation. With this in mind, some initial proposals are being developed to discuss with the Committee when it meets in October covering:

- developing clear arrangements and guidance for scrutinising external service delivery arrangements, including those undertaken with key partners such as Health, Police and other key Alliance partners
- developing protocols, arrangements and guidance for pre scrutinising key decisions
- Improving the robustness of Forward Planning for Council and Committees, including the development of a Strategy Calendar to set review timescales well in advance for key Council strategies and policies and audit programme
- Developing a Scrutiny handbook for elected members which sets out the broad arrangements and principles underpinning the Council's scrutiny framework
- Undertaking a scrutiny training needs assessment for elected members supported by appropriate training to enhance existing elected member scrutiny capacity.

## **6.0 Conclusions**

6.1 Recent changes to political decision making structures have provided the opportunity to strengthen the Council's scrutiny arrangements. The report

builds on the previous Scrutiny Committee Improvement Plan and also sets out further proposed developments for the future.

- 6.2 It is likely to take a little time to fully develop and embed these arrangements. Clarity about the respective roles and responsibilities of the Resources and Audit Committee and the service committees is critical to achieving this and this report aims to provide more detail of how these arrangements are intended to work in practice.

## 7.0 Sustainability Implications

- 7.1 N/A

## 8.0 Resource Implications

### 8.1 Financial Details

- 8.2 There are no financial implications directly from this report.

### 8.3 Staffing

- 8.4 There are no staffing implications directly from this report.

## 9.0 Exempt Reports

- 9.1 Is this report exempt? Yes  (please detail the reasons for exemption below) No

## 10.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities 2008 - 2011** (Please tick )

- |  |                                     |
|--|-------------------------------------|
| The area has a positive image and attracts people and businesses         | <input type="checkbox"/>            |
| Our communities are more cohesive and inclusive                          | <input type="checkbox"/>            |
| People are better skilled, trained and ready for learning and employment | <input type="checkbox"/>            |
| Our communities are safer  | <input type="checkbox"/>            |
| Vulnerable people and families are supported                             | <input type="checkbox"/>            |
| Substance misuse and its effects are reduced                             | <input type="checkbox"/>            |
| Health is improving and health inequalities are reducing                 | <input type="checkbox"/>            |
| The environment is protected and enhanced for all                        | <input type="checkbox"/>            |
| The Council is effective, efficient and recognised for excellence        | <input checked="" type="checkbox"/> |

- (2) **Council Policies** (Please detail)

### 11.0 Equalities Impact

11.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? N/A

### 12.0 Legality

12.1 In adopting the recommendations contained in this report, the Council is acting within its legal powers. YES

### 13.0 Appendices

13.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix A: Political Decision-making structures

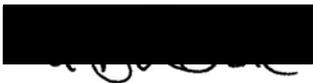
Appendix B: Call-in procedure

### 14.0 Background Papers

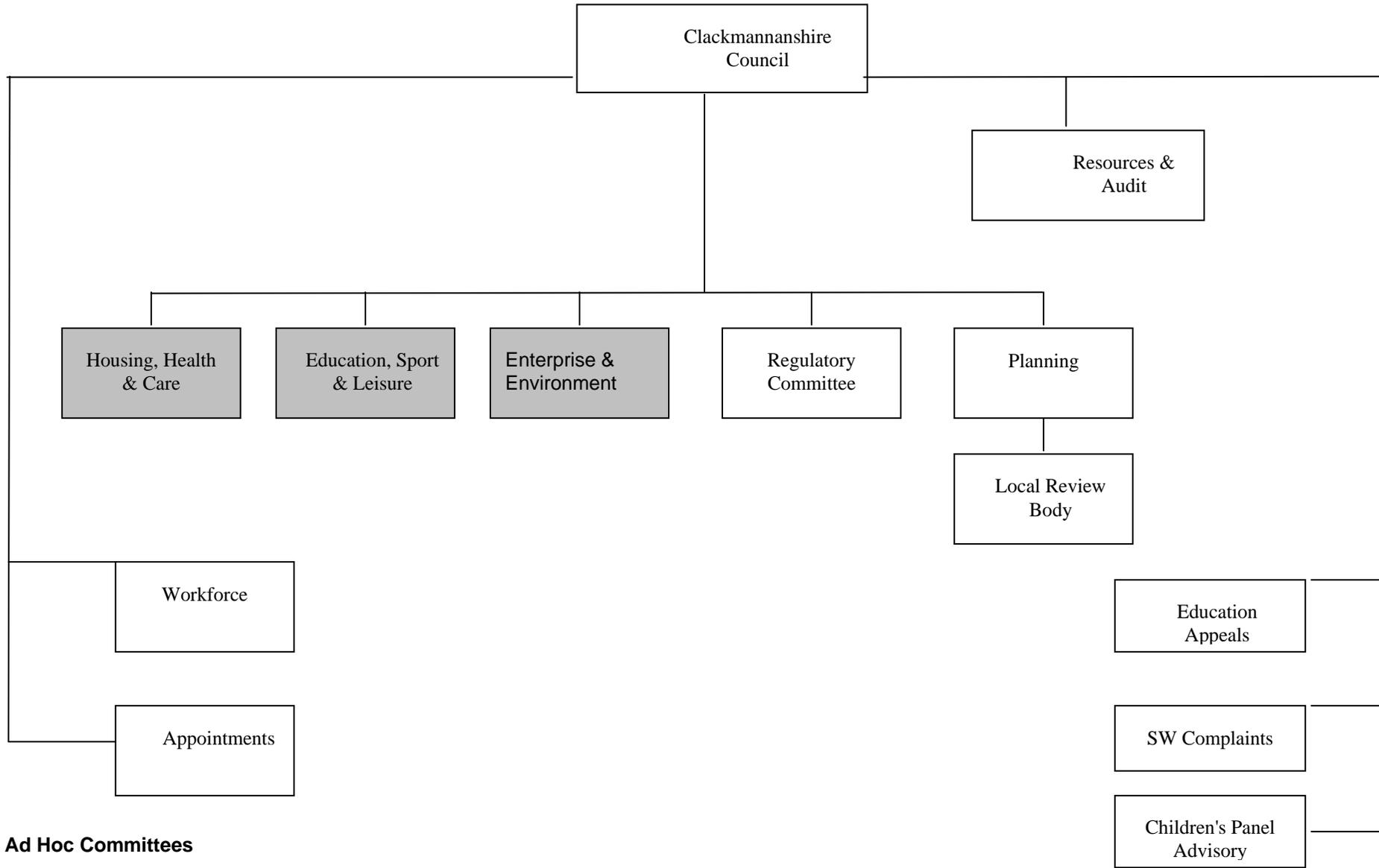
#### Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Nikki Bridle	Director of Finance and Corporate Services	2030

#### Approved by

NAME	DESIGNATION	SIGNATURE
Nikki Bridle	Director Finance & Corporate Services	
Elaine McPherson	Chief Executive	

**APPENDIX A - Proposed Committee Structure**



**Ad Hoc Committees**

**Statutory Committees**



## APPENDIX B - CALL IN PROCEDURE

