

EAST AYRSHIRE COUNCIL

COUNCIL MEETING: 8 OCTOBER 2009

REVIEW OF DECISION-MAKING STRUCTURE

Report by Chief Executive

1. PURPOSE OF REPORT

- 1.1 The Council agreed that its present decision-making structure be subject to review and this report presents the findings of that review.

2 BACKGROUND

- 2.1 Local Authorities in Scotland must take corporate decisions. Provisions in the Local Government (Scotland) Act 1973 as amended allow Local Authorities to devolve most decision-making to a Committee, Sub-Committee or Officer of the Council. Traditionally, Authorities had tended to operate through a structure of Committees and Sub-Committees. However, over the years, reviews of local democracy sponsored by the Scottish Government (commencing with the McIntosh Commission report "Moving Forward Local Government and the Scottish Parliament 1999") have prompted a number of Local Authorities to alter their decision-making structures, in attempts to achieve more efficient, accountable and transparent arrangements. Some Councils have streamlined their Committee structures by reducing the number of service-specific Committees, and instead concentrating on broader, more cross-cutting thematic areas. Others have dispensed with Committee structures in favour of executive structures (Cabinet), in which responsibility for most strategic decisions is delegated to an Executive of between five and 13 Councillors. In this kind of structure, it is the role of non-Executive Elected Members to scrutinise the Executive activities. There is no requirement for Councils to adopt a particular political decision-making and scrutiny structure: it is a matter for each Council to decide what is the most appropriate structure for its particular circumstances and context.

- 2.2 Prior to the elections in 2007 East Ayrshire Council agreed to review its political and management structures in the context of the 2007 Local Government Elections and to further develop the Council's scrutiny arrangements.

- 2.3 Following the Local Government Elections, the Council at its meeting on 17 May 2007 determined to adopt a Cabinet model decision-making structure with allocated executive portfolios to reflect a Community Plan based thematic approach, counter balanced by an independent Governance and Scrutiny Committee chaired by an Opposition Member to hold the Cabinet to account.

3. EAST AYRSHIRE'S DECISION-MAKING STRUCTURE

- 3.1 Within the decision-making structure, the Council's key roles are:-

- (i) as an enabler, that is to approve the decision-making structure and to appoint Elected Members to that structure. All but one member of the Cabinet is elected annually by the Council; and
- (ii) as the ultimate scrutiny body by allowing all Elected Members the opportunity to debate and discuss decisions of the Cabinet and to question individual Cabinet portfolio holders on a regular basis.

3.2 The Cabinet has full delegated authority to set and implement policy and to take all strategic and service delivery decisions. The Governance and Scrutiny Committee has operational responsibility for scrutiny and review.

3.3 In adopting the new decision-making structure the Council intended to provide:-

- transparency of decision-making;
- accountability of leadership;
- clear cut scrutiny and performance review;
- greater focus on broader Community Plan cross-cutting thematic objectives;
- more informed openly debated decision-making;
- streamlining of Council business; and
- greater emphasis on strategic planning and provision.

4. REVIEW

4.1 The review was a qualitative exercise centred on a survey of internal users of the system namely Elected Members and Chief Officers. The survey was designed to elicit views and opinions on how the new decision-making structure has operated. The review focussed on specifically the Council, the Cabinet and the Governance and Scrutiny Committee within the structure and also sought views and opinions on the new structure as a whole.

4.2 The areas covered were:-

- strengths and weaknesses;
- effectiveness of the new system;
- quality of decision-making; and
- operational support arrangements.

4.3 84% of Elected Members (27) and 100% (17) of applicable Chief Officers submitted responses.

5. THE VIEWS OF ELECTED MEMBERS

5.1 The variation in views of the new system are evident from the different political groups.

5.2 In terms of the Administration, the overwhelming view was that the new structure had delivered the aims as outlined in paragraph 3.3 above. In terms

of weakness, comments were correspondingly limited. One reference was made that non-Cabinet Members may not feel as able to make a “personal” input to the decision-making process. Another referred to the “perceived” secrecy in Cabinet decision making and another expressed concern that the governance and scrutiny process could be used as a political tool.

- 5.3** In terms of the Council, overall the Administration Members who submitted a response considered that arrangements were about right. In terms of the Cabinet, again the overwhelming view of the Administration Members who submitted a response considered that arrangements were about right, although there were two comments that Officer support to Cabinet could be further developed to assist portfolio holders. Another comment in terms of the amount of information circulated at Cabinet meetings suggested that perhaps the report format could be reviewed to assist Cabinet Members.
- 5.4** In terms of the governance and scrutiny arrangements, the Administration expressed overall support for the activity of governance and scrutiny and that arrangements were about right. However, several comments were made regarding call-in arrangements and the need to clarify procedure to avoid inappropriate call-in requests.
- 5.5** In summary the Administration Members who responded expressed overall support for the decision-making structure and made no suggestions of introducing an alternative decision-making structure. A number of suggestions were made in relation to administrative/operational arrangements, for example:
- more intensive and informative Officer briefing;
 - possibly greater lead in time between issue of Cabinet papers and Cabinet meetings;
 - possible review of report format to assist Cabinet members in terms of how information is presented; and
 - a review of call-in procedures to ensure clarity and validity of call-in decision.
- 5.7** In terms of the Major Opposition Group, a single group submission was submitted. The view of the major opposition group was that the fundamental weakness of the new structure excluded experienced Elected Members from debate and that there was a greater danger of complacency being adopted by Elected Members on Cabinet and that Officer recommendations were not subject to appropriate democratic scrutiny. The major opposition group are of the view that representation within the decision-making structure should be based on the political split of the Council.
- 5.8** In terms of the Council, the Main Opposition Group has expressed a view that the Council does not allow for any debate and again reiterated their view as outlined in paragraph 5.7 above. In terms of governance and scrutiny the main opposition group have expressed a view that arrangements are about right.

- 5.9** In summary the Main Opposition Group have intimated that they do not agree that the decision-making process is acceptable and that Elected Members, due to lack of involvement in Cabinet, are less informed. The Main Opposition Group have suggested that whatever system is introduced it should reflect the political make-up of the Council, to ensure proper representation and debate.
- 5.10** The response from the Minority Opposition Group representative has indicated that the new structure promotes quicker decision-making but recognises that some Members may feel excluded from the decision-making process. In terms of the Council, in general the arrangements are considered to be just about right; however, the respondent recognises that Council meetings are the only opportunity for some Members outwith the Cabinet to participate in challenging the activities of the Cabinet and has suggested that perhaps an extra one or two meetings per year may remove the feeling of disconnection from the decision-making process.
- 5.11** In terms of the Cabinet, the respondent considers overall that arrangements are just about right. In terms of the Governance and Scrutiny Committee, overall arrangements are considered just about right although a concern was expressed that in terms of the frequency of meetings there may be a potential delaying affect on called-in matters depending on timing of Cabinet meetings.
- 5.12** In general, the response from the Minority Group representative expressed general satisfaction in terms of the operation of the decision-making structure and has suggested that the present system has not been operational for sufficient time to fully bed in and that it is too early to consider an alternative decision-making structure.

6. THE VIEWS OF CHIEF OFFICERS

- 6.1** In terms of Chief Officers, it was recognised there was significant strengths to the new structure in terms of: joined up analysis and deliberation of all aspects of the Council's services; responsiveness and flexibility; quicker decision-making; the establishment of separate scrutiny arrangements; and clearer focus on strategic decision-making.
- 6.2** Some concern was expressed that Cabinet portfolios are unclear and too large and there is disconnect between portfolio remits and Council structure. Suggestions have been made that portfolios should align with Department and Services and that this arrangement would provide portfolio holders with tighter remits and more direct links to specific Chief Officers. In terms of portfolios, reference was made to the importance of enhancing the strategic overview by the Leader/Depute Leader of the Council of the Council's resource alignment and deployment and performance. Officers also recognised that there may be a perception by those members not on Cabinet of less involvement in the decision-making process.
- 6.3** In respect of the operation of the full Council within the new decision-making structure there was general agreement within Chief Officers that arrangements were overall operating at the correct level to meet all service

requirements. Notwithstanding the effective operation of the Council meeting in terms of meeting service needs, there was recognition that greater use could be made of the full Council meeting to debate issues and hold the Cabinet and Portfolio Holders to account.

- 6.4** In respect of the operation of the Cabinet within the new decision-making structure there was general agreement that the Cabinet operated at the correct level to meet all service requirements. Some concern was expressed that not enough Members are involved in the decision-making process and that there needed to be more opportunity for in depth debate.
- 6.5** In terms of governance and scrutiny, there was, in general, agreement that the Governance and Scrutiny Committee had worked well and established governance and scrutiny arrangements/guidelines had provided the opportunity for Elected Members to have appropriate checks and balances by looking at individual decisions or policies and strategies. Work undertaken in respect of reviews including winter gritting and recycling, provide good models for the future.
- 6.6** In respect of those who expressed a view there was no suggestion that an alternative decision-making structure should be introduced and that focus should be on an ongoing development of the existing decision-making structure in response to and to meet stakeholders requirements.

7. A CABINET BASED DECISION-MAKING STRUCTURE

- 7.1** In terms of a Cabinet based decision-making structure the full Council will determine how many Members will be needed to populate the Cabinet and its composition. It is generally accepted that the Cabinet should comprise of a small number of members, relative to the size of the Council. It would be for the Council to determine the political make-up of the Cabinet. It could be mixed or single party or a coalition. The Council again would be responsible for determining the remit and power of the Cabinet and again the Council would require to determine to whom the Cabinet would be answerable whether that would be directly to the Council. At the time of carrying out the review it was ascertained that 10 other Local Authorities operated a Cabinet or equivalent system. The political composition of the Cabinet varies from single party Cabinets with no opposition representation to mixed party representation depending on coalition arrangements (Details given under Appendix 1).
- 7.2** East Ayrshire Council determined that its Cabinet would comprise of 10 Members and include a member from the major opposition party. In addition to counter balance the Cabinet, an independent Governance and Scrutiny Committee was created to be chaired by a member of an opposition party.
- 7.3** The undernoted arrangements are also in place to support Elected Member participation in the decision-making process:-

- Introduction of a dedicated Councillors' information portal to provide up-to-date information to Councillors and to assist them in their scrutiny role in terms of access to Council paper and research facilities.
- Every Elected Member receives a full set of Cabinet papers.
- Decisions of Cabinet intimated to all Elected Members within 48 hours.
- Call-in arrangements.
- Comprehensive governance and scrutiny guidelines to assist all Elected Members.
- Every Elected Member receives a full set of Governance and Scrutiny papers.
- Training provision for Members with particular focus for Governance and Scrutiny Committee Members, all to be further enhanced by the Members Development Programme.
- Six monthly report by Leader of the Council to Council meeting and provision for any member without prior notice to put questions to the Leader of the Council about the report.
- Annual report by the Chair of the Governance and Scrutiny Committee to Council.
- Provision within the Council's Scheme of Delegation and Administration to provide for a member of the Main Opposition Party to substitute for the Leader of the Main Opposition Party at Cabinet in the event that the Leader of the Main Opposition Party is unable to attend.
- Provision within the Standing Orders for (i) individual Members who have a local or other special interest to participate in discussion at Cabinet meetings; (ii) individual Members who have submitted scrutiny issues to participate in discussion at Governance and Scrutiny meetings and (iii) the opportunity for any Member to put questions to either the Leader of the Council or the relevant Cabinet portfolio spokesperson(s) on any items within the minutes of the Cabinet that are put before Council or request information on an item within any other minute that it is before Council.

8. ISSUES FOR CONSIDERATION

- 8.1** As outlined earlier in this report, the principal elements of East Ayrshire Council's decision-making structure comprise of the Council, the Cabinet and the Governance and Scrutiny Committee. It is the interaction of all three of these elements that ensure the effectiveness of East Ayrshire Council's decision-making structure. In developing this system, the Council decided to move away from service/departmental specific arrangements and to focus on broader Community Planning cross-cutting thematic areas. Support and guidance on the operation of the new decision-making structure has been provided since its inception in the Scheme of Delegation and dedicated guidelines. However, in terms of providing further clarification, in particular to the general public, Officers will give further consideration to providing additional information both in written form and through the Council's website, all within the wider suite of our Public Performance reporting arrangements.

- 8.2** In respect of the number of operational/administrative arrangements raised by Members and Chief Officers, these issues will be considered by Council/Cabinet/Governance and Scrutiny support staff. Wherever feasible opportunities to further develop support to the decision-making structure and its users will be made and users kept informed.
- 8.3** As a result of the review of the Community Plan Thematic Action Plans, which, from 1 April 2009 were reduced from six to four, namely, Improving Health and Wellbeing; Promoting Lifelong Learning; Delivering Community Regeneration; and Improving Community Safety it is proposed that, the Cabinet portfolio arrangements, and associated external partnerships, be reviewed to ensure that these arrangements continue to meet the aims of the decision-making structure as outlined in paragraph 3.3. It is recognised that the Community Plan is the sovereign planning document for East Ayrshire and provides the overarching policy and strategic framework for the delivery of services; thus there is the need to maintain clear links between strategic and operational planning and budget setting arrangements and, further, to maintain effective political overview and management of a robust and systematic planning framework that links the strategic priorities of the Council to the management of the Council's resources and assets.
- 8.4** In terms of areas for further development, if the Council continues with existing decision making arrangements, appropriate action will be taken to further reinforce and promote the wide range of thematic responsibilities that portfolio holders exercise and to ensure that all portfolio holders have the greatest opportunity to exercise as fully as possible any areas of specialism and interest within their remits. In addition, the review of support arrangements will ensure that portfolio holders continue to be briefed properly and kept up to date in terms of portfolio issues. Steps will be taken to strengthen engagement with Elected Members to make the very best use of every opportunity to provide for all Elected Members to engage and be involved in a wide range of key and major issues not necessarily just through Cabinet but by other forms of consultative/review bodies as deemed appropriate. In addition where possible the opportunity can be taken through operational support and through Elected Member development initiatives to further assist Portfolio holders in their role within Cabinet.
- 8.5** In addition to the review of Cabinet portfolios and of associated external partnerships, Council is also asked to consider the undernoted proposals which flow from this current review, namely, viz:-
- The provision for an additional member from the Main Opposition Group to become a Member of Cabinet, for the meantime, increasing the membership of Cabinet to 11, pending the review of Cabinet portfolios.
 - That consideration be given to increasing the frequency of Council meetings to every six weeks (an additional three meetings) thus providing for greater opportunity for individual Councillors to debate and question Cabinet activity.

- Amendment to Standing Order 23 to provide for the terms of a motion or amendment made by the Leader of the Opposition party to be recorded within the minutes of the proceedings of Cabinet meetings even though that motion or amendment did not receive a seconder.
- To provide for greater Elected Member involvement in the development of major Council policies and strategies, by the introduction of refined consultative arrangements; the Head of Democratic Services will consider and report.
- A review by the Head of Democratic Services into the feasibility of further developing Cabinet support arrangements for Cabinet Portfolio Holders and Service Chief Officers.
- A review of the model report format to make key information more readily accessible to Members to assist in their consideration of business.

9. FINANCIAL/LEGAL/COMMUNITY PLANNING AND RISK MANAGEMENT IMPLICATIONS

- 9.1** Any amendments to decision-making structure and support arrangements will require to be met from existing resources.

10. CONCLUSION

- 10.1** East Ayrshire Council has determined that its decision-making structure be based on a Cabinet system focussed on broader, more cross-cutting Community Plan thematic areas. The make-up of that Cabinet system is not unusual. The Council has introduced a number of arrangements to provide the opportunity for Elected Members to engage in the decision-making process either individually or as part of working groups, review groups or under the governance and scrutiny arrangements. The Council remains the main forum which allows every individual Elected Member to raise issues of concern and debate and question the activity of Cabinet business as presented to Council through the minutes of Cabinet.

- 10.2** In terms of the Administration, the Minority Opposition Group and Chief Officers, there is no support for an alternative decision-making structure; instead it is suggested that the focus should be on an ongoing development of the existing decision-making structure and this paper makes appropriate recommendations for consideration of Council. However, the Major Opposition Group do not accept that the present decision-making structure provides for effective engagement of all Elected Members and that any decision-making structure should be based on the political make-up of the Council. That is an issue for the Council to decide.

11. RECOMMENDATIONS

- 11.1** It is recommended that the Council agrees:-

- (i) To the continuation of the existing decision making structure;

- (ii) that the frequency of Council meetings be amended from every eight weeks to every six weeks to provide greater opportunity for individual Councillors to debate and question Cabinet activity and that it be remitted to the Head of Democratic Services to fix appropriate meetings dates within the Council's Meetings Calendar;
- (iii) To align Cabinet portfolio arrangements and associated external partnerships with the Council's Strategic Planning arrangements and the new Community Plan Themes all as outlined at paragraph 8.3 of the report and to remit to the Chief Executive to report to Council at its next meeting;
- (iv) That Council makes provision for an additional member from the Main Opposition Group to become a Member of Cabinet, in the meantime, increasing the membership of Cabinet to 11, pending the outcome of the review of Cabinet portfolios and associated external partnerships;
- (v) that each of the Main Opposition Cabinet Members be able to appoint substitutes to take their place at Cabinet meetings in their absence (such substitutes may not be those members who are members of the Governance and Scrutiny Committee);
- (vi) to remit to the Head of Democratic Services to give consideration to the provision for greater Elected Member involvement in the development of major Council policies and strategies and report back to Council at its next meeting;
- (vii) that the Head of Democratic Services carry out a review into the feasibility of further developing Cabinet support arrangements for Cabinet portfolio holders and Chief Officers;
- (viii) that a review of the model report format be carried out with a view to making key information more readily accessible to Members to assist in their consideration of business;
- (ix) to note that the Head of Democratic Services will address various operational/administrative arrangements raised under the review and take appropriate action where feasible to further develop support to the decision-making structure and its users and that the users will be kept informed; and
- (x) to otherwise note the report.

Fiona Lees
Chief Executive

BW/SC
30 September 2009

LIST OF BACKGROUND PAPERS

1. Questionnaire.
2. Questionnaire returns.

Any person wishing further information on this report should contact Bill Walkinshaw, Head of Democratic Services on Tel No (01563) 576135. Any person wishing to inspect the background papers in respect of this report should contact Bill Walkinshaw, Head of Democratic Services on Tel No (01563) 576135.

Implementation Officer: Bill Walkinshaw, Head of Democratic Services.

LOCAL AUTHORITY	NO OF COUNCILLORS	CABINET	POLITICAL COMPOSITION	COMMITTEE	CONTACT
City of Aberdeen	43	-	-	Yes	@aberdeencity.gov.uk
Aberdeenshire	68	-	-	Yes	.services@aberdeenshire.gov.uk
Angus	29	-	-	Yes	@angus.gov.uk
Argyll & Bute	36	Cabinet Total Cabinet Members - 15	Independent/SNP coalition Cabinet - 7 Ind, 5 SNP, 3 Lib Dem	-	.Rodger@argyll-bute.gov.uk
Clackmannanshire	18	-	-	Yes	@clacks.gov.uk
Dumfries & Galloway	47	-	-	Yes	.foley@dumgal.gov.uk
City of Dundee	29	-	-	Yes	.hunter@dundeecity.gov.uk
East Dunbartonshire	24	-	-	Yes	.admin@eastdunbarton.gov.uk
East Lothian	23	Cabinet Option - Leader & a Cabinet Total Cabinet Members - 7	SNP/Lib Dem coalition. Cabinet - 4 SNP, 3 Lib Dem	-	@eastlothian.gov.uk
East Renfrewshire	20	Cabinet Option - Leader & a Cabinet Total Cabinet Members - 7	Labour/SNP/Ind/Lib Dem Coalition Cabinet - 4 Labour, 2 SNP, 1 Independent	-	@eastrenfrewshire.gov.uk
City of Edinburgh	58	-	-	Yes	@edinburgh.gov.uk
Falkirk	32	-	-	Yes	.pirie@falkirk.gov.uk
Fife	78	-	-	Yes	.council@fife.gov.uk
City of Glasgow	79	Executive Committee - 21 members	14 members from ruling Labour Administration and 7 Opposition Members	-	@glasgow.gov.uk
Highland	80	-	-	Yes	.point@highland.gov.uk
Inverclyde	20	-	-	Yes	
Midlothian	18	Cabinet Option - Leader & a Cabinet Total Cabinet Members - 6	Labour Administration Cabinet - 6 Labour Members	-	.Wilson@midlothian.gov.uk or .Clifford@midlothian.gov.uk
Moray	26	-	-	Yes	@moray.gov.uk

LOCAL AUTHORITY	NO OF COUNCILLORS	CABINET	POLITICAL COMPOSITION	COMMITTEE	CONTACT
North Ayrshire	30	Cabinet Total Cabinet Members - 6	Labour Administration Cabinet - 6 Labour	-	@north-ayrshire.gov.uk
North Lanarkshire	70	-	-	Yes	@northlan.gov.uk
Orkney	22	-	-	Yes	.Flett@orkney.gov.uk
Perth & Kinross	41	-	-	Yes	@pkc.gov.uk
Renfrewshire	40	-	-	Yes	.ferguson@renfrewshire.gov.uk
Scottish Borders	34	Cabinet Option - Leader & a Cabinet Cabinet Name - Executive Cabinet Total Cabinet Members -12	Ind/Con/Lib Dem Coalition Cabinet - 2 Ind, 5 Cons, 5 Lib Dem	-	@scotborders.gov.uk
Shetland	22	-	-	Yes	.c.simpson@shetland.gov.uk
South Ayrshire	30	Leadership Panel with associated Scrutiny Panels	Con minority Administration Leadership Panel - 5 Con, 1 Ind, 1 SNP	-	@south-ayrshire.gov.uk
South Lanarkshire	67	-	-	Yes	.lake@southlanarkshire.gov.uk
Stirling	22	Executive Cabinet Total Cabinet Members - 6 (9 during discussion of education items)	SNP Administration Cabinet - 6 SNP (1 Con, 1 Lib Dem, 1 Lab - Education Items only)	-	@stirling.gov.uk
West Dunbartonshire	22	-	-	Yes	.stewart@west-dunbarton.gov.uk
West Lothian	32	Cabinet Total Cabinet Members -9	SNP/Ind Coalition Cabinet - 8 SNP, 1 Other	-	.service@westlothian.gov.uk
Western Isles	31	-	-	Yes	@cne-siar.gov.uk