

EAST AYRSHIRE COUNCIL

21 JUNE 2007

MEMBERSHIP OF PRISON VISITING COMMITTEES

Report by the Solicitor to the Council

1. PURPOSE OF REPORT

- 1.1 To apprise Council members of the legal requirements incumbent upon and appointment options available to East Ayrshire Council by virtue of the relevant provisions of The Prisons and Young Offenders (Scotland) Rules 2006, to provide potential members of the Prison Visiting Committees with some detail of the general duties of visiting committees and members of committees and to seek to have the appropriate number of members appointed to serve on Kilmarnock and Barlinnie Prison Visiting Committees (PVC's).

2. BACKGROUND

- 2.1 In terms of Rule 155(5) of The Prisons and Young Offenders Institutions (Scotland) Rules 2006 East Ayrshire Council is under a statutory obligation to appoint the member or members of a visiting committee at a meeting of the Council to be held no later than two months after the date of the election of councillors. Such appointments are then to subsist from the day which falls two months after the date of such election, in this case from 3 July 2007, until the day prior to the day which falls two months after the date of the next ordinary election of councillors. Within that period members can of course cease to hold office by virtue of resignation.
- 2.2 The statutory provisions oblige East Ayrshire Council to appoint, out of total membership of twenty five, one member to Barlinnie PVC, who previously has been an elected member of the Council. In respect of Kilmarnock Prison the full complement is fifteen of which East Ayrshire Council is required to appoint four members. Of these four Kilmarnock PVC members a minimum of two members must be lay members i.e. they cannot be elected members of the Council. For information purposes only the East Ayrshire membership of both committees under the previous administration was as follows:

- **Barlinnie Prison Visiting Committee**

Councillor John Knapp

- **Kilmarnock Prison Visiting Committee**

Councillor John Knapp

Councillor Jim Raymond

Mr George Herbert J.P (lay member and current chair of the Kilmarnock PVC)

Mr Robert Bryan J.P (lay member)

Members should also be aware that since 1996, on an informal basis, administrative support has been provided to the Kilmarnock PVC by Legal Services staff. However, these current arrangements may require to be reconfigured as a consequence of the transfer of the District Court function to the Scottish Court Service which is due to take place during 2009/10.

3. OPTIONS FOR APPOINTMENT

3.1 In the first instance members should note that, in accordance with advice issued by the Scottish Executive Justice Department earlier this year, it is not a requirement of the statutory provisions that members of PVC's be elected Members of the Council. The Rules provide only for the maximum number of members for any PVC and for the minimum number of lay members. Whilst it is regarded as unlikely that local authorities would choose to have a PVC made up entirely of lay members, there is nothing to prevent the appointment of a greater number of lay members to any PVC than that specified in the Prison Rules. Accordingly, if it so determined, East Ayrshire Council could appoint more than two lay members to the Kilmarnock PVC. Similarly, it could also decide to appoint a lay member as its appointee to the Barlinnie PVC.

3.2 Mr Robert Bryan JP, one of the current lay members of the Kilmarnock PVC, has already indicated that he does not seek to be re-appointed but expressions of interest in appointment to the Kilmarnock PVC have been forthcoming from:

- Mr George Herbert J.P. (current lay member and Chair of the Kilmarnock PVC), 80 Dundonald Road, Kilmarnock, KA1 1TH
- Mr Gerald Alexander JP, Hapland Cottage, Barony Road, Auchinleck, KA18 2LP
- Mr James Currie JP "Dunayre" 116-118 Main Street, Muirkirk, KA18 3QY

No expressions of interest in being appointed as a lay member to the Barlinnie PVC have been received.

3.3 Accordingly, Members will require to determine these issues on membership and thereafter appoint the requisite number of members to each committee.

4. GENERAL DUTIES OF VISITING COMMITTEES AND MEMBERS OF COMMITTEES

4.1 Visiting committees are generally required to promote the efficiency of the prison concerned and to inquire into and report upon any relevant matter to the Scottish Ministers. In addition the PVC must bring to the attention of the prison Governor, or in some cases the Scottish Ministers, any circumstances relating to the administration of the prison or the condition of any prisoner which appear to it to be expedient to report.

4.2 In addition to the general duties as outlined above the PVC are required to, from time to time, enquire into the state of the prison premises and inspect the food and drink provided to prisoners. In terms of meetings the PVC must meet at the prison at least once every three months and not fewer than two members must visit the prison at least fortnightly by way of rota.

5. LEGAL/POLICY/FINANCIAL/COMMUNITY PLANNING IMPLICATIONS

5.1 Other than the Council's statutory obligation to appoint the requisite numbers to each Prison Visiting Committee on or before 2 July 2007, none arising directly from the contents of this report.

6. RECOMMENDATION

6.1 It is therefore recommended that the Council proceed to appoint one member to the Barlinnie Prison Visiting Committee and four members to the Kilmarnock Prison Visiting Committee.

Solicitor to the Council
6 June 2007

LIST OF BACKGROUND PAPERS

Nil

Anyone wishing further information should contact Stuart McCall (Tel. 01563 576085).

Implementation officer: David Mitchell, Head of Legal, Procurement & Regulatory Services