

## **EAST AYRSHIRE COUNCIL**

### **STATUTORY MEETING - 17 MAY 2007**

#### **DECISION MAKING STRUCTURES AND THE FURTHER DEVELOPMENT OF SCRUTINY ARRANGEMENTS**

##### **Report by Chief Executive**

### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to present for the consideration of Council, three models of decision making structures that are more directly linked to the Community Planning thematic objectives and provide for more open and systematic scrutiny arrangements.

### **2. BACKGROUND**

- 2.1 East Ayrshire Council has, since its inception, kept its decision making structure under constant review. The Council's existing decision making structure (Appendix I) is based on a traditional Service-specific system with the majority of Committees linked to the work of individual Service Departments (excluding Policy and Resources and Corporate Governance Committees). The structure also provides for decentralised decision making through three Local Planning Committees and a system of seven Local Committee areas. The Committee cycle is on an eight-weekly basis excluding Local Planning Committees which meet every four weeks.
- 2.2 The Council's present scrutiny arrangements involve the Corporate Governance Committee, Service Committees themselves, specialised Scrutiny Groups and by public challenge at Local Committee question and answer sessions.

### **3. CABINET/EXECUTIVE MODEL**

- 3.1 Appendix II is an example of a Cabinet/Executive model. This section highlights the key features of a Cabinet/Executive model.

#### **Council**

The Council remains the legal authority.

Areas for decisions will include:

- setting the Council's revenue and capital budgets;
- electing Provost/Depute Provost;
- approving the Council's decision making process and the departmental structures;

- appointing Members to serve on cabinet/executive and Scrutiny Panels etc.
- to hold executive to account, with annual reports, question time, reports on the work of the Scrutiny Panels etc;
- to consider motions for debate on various issues;
- delegation of functions to officers;
- consideration could be given to introducing a public question and answer session as per Local Committees;

The Council would continue to meet on an eight weekly basis but could meet more frequently if it was considered necessary under this model.

### Cabinet/Executive

Any cabinet/executive would be constituted as a Committee under Section 57 of the Local Government (Scotland) Act 1973, as amended. When it meets to take decisions, it would meet in public and be subject to Access to Information provisions.

Some key points in respect of a Cabinet/Executive are:

- comprises of a small number of Senior Councillors, eg 8-10 made up from the Administration where overall majority permits. Provision could be made for Opposition representation: Where no overall majority exists, the Council would determine membership.
- excluding business within the remit of Council, would make all key strategic and service delivery decisions;
- members would be allocated "executive portfolios" reflecting the thematic approach given under paragraph 4 and would act as spokesperson in their areas of responsibility;
- role of cabinet/executive counterbalanced by mechanism that ensures activities and performance are scrutinised;
- agenda and minutes would be circulated to all Elected Members.

The meetings of the Executive would be every two weeks to promote swift turnaround of business.

A Cabinet/Executive model would require to take account of statutory requirements:

- quasi-judicial functions, eg Local Government licensing and processing of planning applications;
- in respect of external appointments to the Education Committee;
- appeals panels required under inter alia Social Work and Housing legislation.

### Call In Procedure/Scrutiny

Cabinet/Executive decisions would be subject to "call in" whereby decisions of Cabinet/Executive are delayed until examined further;

- an agreed call-in procedure detailing exempt decisions and timescales would require to be developed and presented to Council for approval;
- example: Minutes of cabinet/executive issued within 24 hours to all Elected Members; call in made within five working days. Minimum of five Elected Members required to call in a Cabinet/Executive decision. Appropriate Scrutiny Committee would review called in decision and refer back to Cabinet/Executive as required for final decision. Option to submit to Council for final decision.

The Council would determine the number of Scrutiny Panels and composition thereof. Members of the Cabinet/Executive cannot be members of Scrutiny Panels. Remits of Scrutiny Panels in total would require to cover all responsibilities of the Cabinet/Executive.

Scrutiny Panels will be constituted as Committees of Council under Section 57 of the Local Government (Scotland) Act 1973. Scrutiny Panels would meet in public and be subject to the Access to Information provisions.

Detailed remits and support documentation for Scrutiny Panels would be developed but remit would include:

- monitoring the performance of the Cabinet/Executive; departments and third party organisations against service delivery and financial targets;
- consideration of performance reports at predetermined intervals and submission of appropriate recommendations to Cabinet/Executive and/or Council;
- commissioning of reviews on the organisation and delivery of services;
- preparing a programme of policy reviews and order of priority;
- examination of Cabinet/Executive draft policy proposals;
- requiring Executive Members/Head of Departments to attend meetings to answer relevant questions and submit written evidence on relevant matters;
- submitting periodical reports on their activities to Council.

### Officer Delegation

Delegation to officers would require to be increased to remove routine matters from the Cabinet/Executive system. Such matters could include staffing, property and contracted matters. A full report on proposed amendments to the Scheme of Delegation would be submitted to Council for consideration.

## **4. THEMATIC MODEL**

- 4.1** Appendix III is an example of a thematic approach to a Committee based decision making structure. The Community Plan themes, aims and

aspirations have cross-Departmental interest and the thematic model is an attempt to assist in co-ordinated policy development; promoting cross-Departmental working and inter-Agency partnership. This thematic grouping could also apply to cabinet portfolios

### **Environment and Regeneration Committee**

Focussing on Community Planning themes, aspirations and aims in terms of:

- Improving opportunities
- Improving the environment

covering -

Economic Development, Employment Initiatives, Planning and Building Standards, Structure Planning, Roads and Transportation, Tourism, Environmental Health, Cleansing and Waste Disposal, Leisure and Recreation Development and Grounds Maintenance.

### **Community Wellbeing Committee**

Focussing on Community Planning themes, aspirations and aims in terms of

- promoting community safety
- improving health
- eliminating poverty

covering -

Social Work Services, Housing, Road and Community Safety, Consumer Protection, Registration and Burial Ground Services, Emergency Planning, Street Lighting, Community Health and Chemistry and Public Analyst's Services.

### **Lifelong Learning Committee**

Focussing on Community Planning themes, aspirations and aims:

- promoting Community Learning covering -

Educational Services, Pre-Five, Community Learning and Development, Teaching, Community Art, Libraries, Museums and Art Galleries.

Each themed Committee would have responsibility for developing and implementing policy within its given remit.

## **Management and Resources Committee**

Focussing on the overall management of the Council's activities:

- overseeing Community Planning process
- cross-cutting policy overview
- management of Council's resources and assets -people, finance, systems and technology and property
- overseeing all corporate non-themed service functions

## **Governance and Scrutiny Committee**

Focussing on the overall monitoring of Council's activities:

- overseeing Corporate Governance arrangements
- overseeing scrutiny arrangements
- monitoring of performance
- risk management
- audit principles
- Standards of Conduct.

## **5. STREAMLINED SERVICE SPECIFIC MODEL**

Appendix IV is an example of a more streamlined version of the Council's existing decision making structure. Each Service Committee would have responsibility for development and implementing policy within its given remit.

- (i) Education and Social Services Committee (combining present Education and Social Work Committee remits);
- (ii) Neighbourhood Services Committee (combining Housing and Community Services Committee remits);
- (iii) Regeneration Committee (remit of former Development Services Committee);
- (iv) Management and Resources Committee (as per Policy and Resources but with personnel issues added);
- (v) Governance and Scrutiny Committee (as per Corporate Governance but with greater scrutiny activity and personnel issues removed).

## **6. COMMITTEE MEMBERSHIP COMPOSITION**

- 6.1** Membership composition has been determined in accordance with CoSLA's recommendation to ensure proportionality of Party representation in appointments to Committees and Sub-Committees etc.

- 6.2** The suggested membership composition as detailed within the relevant Appendices is determined on a purely mathematical basis based on each Party's proportion of the total membership of East Ayrshire Council. The Scottish Labour Party having 14 members, hold a 44% (0.44) proportion of membership. The Scottish National Party also have 14 members and hold 44% (0.44) proportion of membership. The Scottish Conservative and Unionist Party holds a 9% (0.09) proportion of membership. The Independent Member holds a 3% (0.03) proportion of membership.

Example: Committee with 21 members.

Scottish Labour Party  $21 \times 0.44 = 9.24$ , ie 9

Scottish National Party  $21 \times 0.44 = 9.24$ , ie 9

Scottish Conservative and Unionist Party  $21 \times 0.09 = 1.89$ , ie 2

Independent Member  $21 \times 0.03 = 0.63$ , ie 1.

Membership numbers are either rounded up or rounded down to the nearest whole number.

## **7. LINKS WITH COMMUNITY PLANNING STRUCTURES**

- 7.1** Consideration has been given to the integration of community planning decision-making with that of the Council. While there is merit in closer links between the 2 structures as they currently exist, there is nevertheless a statutory requirement whereby there is a need to have a separate Community Planning Partnership Board of some description. In effect, the Community Planning Partnership requires a decision-making body. While it is up to each Community Planning Partnership as to how this is constituted and the method by which this is supplemented, it remains the case that such a Group of Partner representatives is required.

- 7.2** Consideration was, however, given to how Community Planning Partners might be integrated into the Council's political structures no matter the final Model which the Council might settle upon. In any of the 3 Models, should Community Planning Partners be members of the decision-making committees (or their equivalent under a Cabinet/Executive Model) this would immediately dilute the ability of democratically elected representatives to take decisions. Three options, however, exist in such circumstances as follows:-

- (a) Community Planning Partners with voting powers over all items (with the exception of Council finance matters from which they are automatically excluded by legislation);
- (b) Community Planning Partners with limited decision-making powers over community planning matters only – the issue here would be as to how we would distinguish between that which related to the Community Plan and to exclusively Council-related matters; and

- (c) Community Planning Partners with no decision-making powers – in this event it is likely that community planning representatives would consider themselves disengaged from the decision-making process.

**7.3** A great deal of consideration has been given to this particular issue and it has been concluded that it is necessary still to have a separate community planning decision-making structure, greatly refined, and this is being pursued through the Community Planning Partnership, but with stronger links to the Council's political decision-making structures.

**7.4** This requires to be achieved at three particular levels:-

**7.4.1 Operational** - it is suggested that the Council might wish to consider the integration of local committees (perhaps in a reduced number to accommodate the new multi-member ward boundaries) with our Local Community and Voluntary Groups, Community Planning Federations and operational representation from Community Planning Partners.

**7.4.2** In respect of this the Council might also wish to consider the potential for each of the Council's 3 Executive Directors to undertake the role of local community champion for each of the respective 3 areas.

**7.4.3 Strategic** - There also requires to be a link with the Council as the Lead Partner of the East Ayrshire Community Planning Partnership at a strategic level. The Thematic Model lends itself to reporting on the performance and outcomes of the Council and its Partners against each of the community plan themes, aims and aspirations and action plans including also the performance of projects funded through the Community Regeneration Fund which, given its nature, should report to the Management and Resources Committee. A similar approach can be achieved through the Streamlined Service Specific Model and equally the Cabinet/Executive would be in a position to receive reports on performance and outcomes against the Community Plan.

**7.4.4 Scrutiny** - The development of strong and robust scrutiny arrangements as detailed within this report will provide a further platform for Member scrutiny of Community Planning activities and further strengthen links between the Council's decision making structure and Community Planning structures.

## **8. DEVELOPING COMMUNITY ENGAGEMENT AND LINKS WITH THE COUNCIL'S AND COMMUNITY PLANNING STRUCTURES**

**8.1** The Local Committee network formed the main plank of the Council's decentralised decision making structure. The existing Local Committee network comprised of seven Local Committees which covered specific geographical areas based on the former 32 Wards of East Ayrshire Council. Following the review of Ward boundaries and the introduction of larger multi-Member Wards, the structure of Local Committees requires to be reviewed. Further, it is suggested that there is an opportunity to develop the role of any new Local Committees to maximise community involvement in Community Planning and Council/Partner Agency services.

## 9. NATIONAL STANDARDS FOR COMMUNITY ENGAGEMENT

- 9.1 East Ayrshire Council and its Community Planning partners have agreed to implement the National Standards for Community Engagement, in order to ensure that community engagement is carried out consistently and to the highest possible standards.
- 9.2 The National Standards for Community Engagement have been developed by the Scottish Executive with the involvement of over 500 people from communities and agencies throughout Scotland. The Standards are a practical tool to help improve the experience of all participants involved in community engagement to achieve the highest quality of process and results.
- 9.3 The Standards set out the following 10 Statements of Commitment that are designed to help develop and support better working relationships between communities and agencies delivering public services.

**Involvement:** we will identify and involve the people and organisations who have an interest in the focus of the engagement.

**Support:** we will identify and overcome any barriers to involvement.

**Planning:** we will gather evidence of need and available resources and use this evidence to agree the purpose, scope and timescale of the engagement and the actions to be taken.

**Methods:** we will agree and use methods of engagement that are fit for purpose.

**Working Together:** we will agree and use clear procedures that enable the participants to work with one another effectively and efficiently.

**Sharing Information:** we will ensure that necessary information is communicated between the participants.

**Working with Others:** we will work effectively with others with an interest in the engagement.

**Improvement:** we will develop actively the skills, knowledge and confidence of all the participants.

**Feedback:** we will feed back the results of the engagement to the wider community and agencies affected

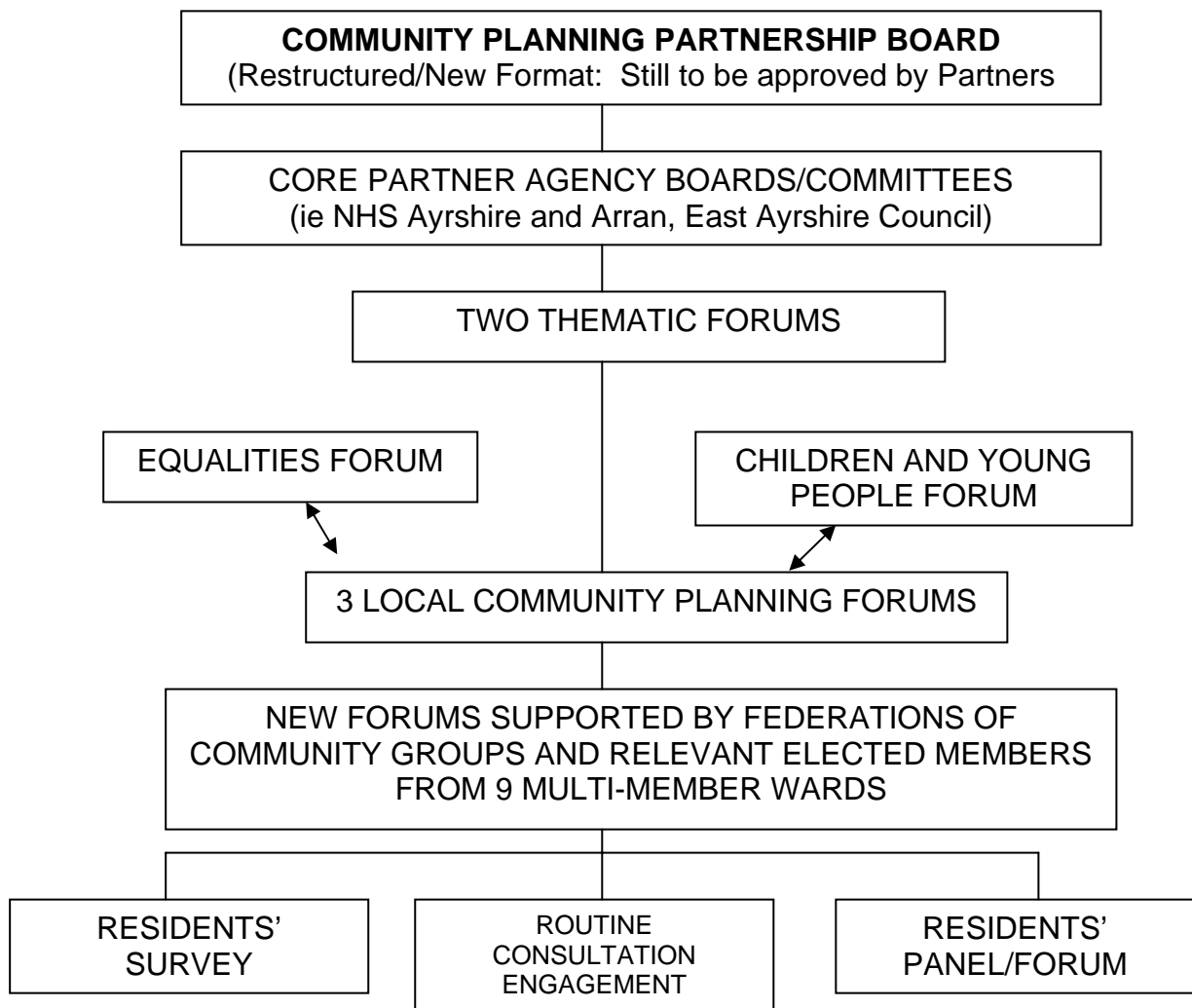
**Monitoring and Evaluation:** we will monitor and evaluate whether the engagement achieves its purposes and meets the national standards for community engagement

## 10. LOCAL COMMUNITY PLANNING FORUMS

10.1 As previously intimated consideration has been given to improving links between the Council's decision making structure and Community Planning structures. Paragraphs 10-12 of this report suggest a way forward and whilst further development work is required, the proposals are submitted for consideration in principle.

10.2 It is considered that the reconfiguration of Local Committee areas to take cognisance of the new multi-Member Wards will provide the opportunity for the development of three Local Community Planning Forums to ensure effective community engagement in setting and influencing local/strategic priorities and improving service delivery and development.

### 10.3 Possible Structure



## **11. EVENTS/THEMED MEETINGS**

- 11.1** The format of meetings of each Local Community Planning Forum would be flexible and provide for the opportunity to arranged themed events/meetings. For example, each Local Community Planning Forum could meet five times per financial year and two of these meetings could be events/themed meetings.
- 11.2** Prior to the start of each financial year, an exercise would be carried out with each Local Community Planning Forum to assist them to identify their priority issued for discussion/that year. The Local Community Planning Forum “Champion” (relevant Executive Director with appropriate Officer support) would then assume responsibility for working up a proposal paper on how best these issues are dealt with, for example: individually within each Local Community Planning Forum; in conjunction with the other Community Planning Forums if they have identified similar issues; by the preparation of a discussion paper; or by organising a themed event/meeting. The themed event/meeting could be organised where representatives wished to discuss a particular issue, for example, anti-social behaviour, health or housing. The event could be organised for one or more Forums depending on the relevance of the theme. In addition, the event could be broadened out to include representatives of the wider community.

Example: anti-social behaviour

- Joint presentation by colleagues from Strathclyde Police, Council’s Anti-Social Behaviour Team and Leisure Services to demonstrate the pro-active work being carried out.
  - Opportunity for questions
  - Opportunity for discussion and debate within Forum/Partnership Working Groups
  - Identification of key issues and way ahead
  - Key issues submitted to relevant Committee/Board for consideration/action, for example Improving Community Safety Working Group, Council Department, relevant Council decision making body and Community Planning Partnership Board.
  - Report progress back to relevant Forum.
- 11.3** The model is based similar to the annual consultation seminar for Community Representatives but much tighter in timescale and overall organisation.

## **12. ISSUES FOR CONSIDERATION**

- 12.1** The development of Local Community Planning Forums would provide for the significant resources both in time and officer participation already invested to be more effectively targeted and better focussed. Such issues would cover greater co-ordination, planning and development role for staff across all partners and would cover:

- Community Planning partners would require to sign up to process
- Reduced number of groups to service
- Clarity of purpose/Terms of Reference would be required
- Balance of Elected Member and Community/Partner Agency involvement required
- Forum Champions would be required
- Significant work/negotiation to establish three Federations
- Training and development role for participants on Forum/Partnerships would be required.

**12.2** Accordingly, it is suggested, if the Council were of a mind to progress this initiative, that it be remitted to the Depute Chief Executive/Executive Director of Corporate Support to develop an Officer Working Group to progress the initiative with a view for its introduction from 1 April 2008. A final report would be submitted back to Members at an appropriate meeting prior to 1 April 2008. In addition, the Review Group would also give consideration to the operation of existing Forums within any new arrangements which would include the Better Government for Older People, Women's Forum, Ethnic Minorities Forum, Disability Forum and the Community Safety Forum. In the meantime, proposals for interim arrangements in respect of local community engagement within the Council's decision making structure is provided later in this paper.

### **13. PLANNING FUNCTION**

**13.1** Irrespective of whatever decision making structure the Council adopts Council is requested to give consideration to the proposed revisions of the Planning decision making function within East Ayrshire Council.

**13.2** The Planning etc (Scotland) Act 2006 received Royal Assent on 20 December 2006. It represents the most radical reform of the planning system since the 1940's and sets in place the primary legislation to secure a system that is more supportive of economic growth, more efficient at delivering decisions at local and national level, and more inclusive of the views of communities.

**13.3** Through the Act, the Scottish Executive has embraced a range of measures to speed up the determination process. Thereafter, Part 7 of the Act introduces new powers to assess planning authority performance and procedures across the planning function and specifically in relation to Development Management envisages a greatly extended range of performance indicators.

**13.4** In this context, Section 17 of the Planning etc (Scotland) Act requires that local planning authorities prepare Schemes of Delegation as soon as practicable. These Schemes must deliver the goals set out in the Bill and, although not formally to be approved by Scottish Ministers, Ministers can intervene if a planning authority has not delegated the necessary powers to its officers.

**13.5** The whole intention behind this is to shift more applications to officers and to allow Committees to concentrate on major applications thereby speeding up the planning process.

**13.6** The Act also establishes a hierarchy of planning applications as follows:-

**National Developments:** will be determined by the Scottish Ministers and concern proposals of national strategic importance or major infrastructure investments.

**Major Developments:** will be determined by elected members and concern large scale developments, not being of national importance but including shopping centres, leisure centres, waste transfer sites, business parks and large scale housing releases, new minerals extraction &/or extensions/revisions and railheads/railways; or requiring environmental, transport or retail assessment.

**Local Developments:** will be determined by officers and include most applications for smaller housing developments, commercial enterprises and changes of use.

**Minor Developments:** will be determined by officers and include such small scale or minor householder proposals (that have not been removed from planning controls through a proposed widening of permitted development rights available to householders).

**13.7** Notable within the new proposals is the intention to remove from the Scottish Executive Inquiry Reporter's Unit the responsibility for determining appeals against refusals, conditions or non-determinations where they relate to Local and Minor Developments processed by officers. Instead a local review body comprising of elected members would determine appeals at this level; although the necessary legislation in this regard is not yet in place. It is uncertain at this time whether such a local appeal process will generate significant workload for officers and elected members; although it can be anticipated that many applicants would be likely to avail themselves of a more accessible, local appeal process if their proposal was refused.

## **13.8 CONSIDERATIONS**

**13.8.1** The Planning etc (Scotland) Act 2006 expects the planning function to be a proactive force for positive and sustainable change. Whilst the regulation of development has within this Council always been undertaken with the conscious aim of promoting appropriate development, even more is now expected of the process. Sustained efforts at improving performance indicators have been successful to a degree but it is clear from colleague authorities that the Scheme of Delegation is a critical factor in this regard.

**13.8.2** It is therefore consistent with the sea change in planning procedures and controls set in train through the new Planning Act, that the terms of the Scheme of Delegation are realigned to focus more clearly on the speed of service delivery, but without any loss in quality of decision making or community engagement.

**13.8.3** A revised Scheme of Delegation, by allowing more applications to be determined by officers, will allow elected members at planning committee to concentrate on major applications and to have a more strategic role.

**13.8.4** To improve accountability, any modernised Scheme of Delegation should be simpler to interpret and should have fewer and clearer “decision routes”. Greater confidence should be available that the decision route once selected in accordance with the Council’s Scheme of Delegation will in fact be the route determination follows. This will assist project and investment planning by prospective developers.

**13.8.5** The Scheme of Delegation was last reviewed in summer 2005 with the Weekly Recommendation List being introduced to potentially allow for more applications being determined by officers. However, over an equivalent period before and after that review, the proportion of applications going to committee has in fact increased and the percentage of those committee items determined within the statutory two month period has declined. Although “householder” application determination performance has improved, overall performance has been held back by the increase in committee items.

### **13.9 SUMMARY OF REVISED SCHEME OF DELEGATION**

**13.9.1** The current Scheme of Delegation determines a “decision route” for applications based upon a number of criteria including development scale, extent of policy compliance, numbers of representations, recommendation and notification to Scottish Ministers. It is considered that this process can be greatly simplified whilst continuing to recognise the relevance of the development plan, any substantial public concern and the scale of the development.

**13.9.2** As part of the simplification process and in recognition that there has not been a consequent reduction in Committee workload, it is considered that there should no longer be a Weekly Recommendation List within the Scheme of Delegation.

**13.9.3** All applications, be they recommended for approval or refusal should therefore be considered under powers delegated to the Head of Planning and Economic Development, unless:-

- they fall into the “major development” category as defined within the national planning framework,
- Valid planning objections have been timeously received from more than 10 separate households or organisations or other third parties,
- The Head of Planning and Economic Development is recommending approval for a proposal which is a significant departure from the Development Plan or an emerging Development Plan (where that can be viewed as a material consideration)
- Where there is an unresolved objection from a statutory consultee such that approval of the application would amount to a significant departure from the existing (or emerging) Development Plan.

- Where the Head of Planning and Economic Development considers that the application raises new or significant issues meriting determination of the proposal at committee.

**13.9.4** Major Development applications will comprise the following proposals: *(Depending upon the emergence of further guidance from the Scottish Executive, this list may require amendment),*

- Retail/Warehousing Developments over 2000 sqm meters
- Industrial Developments over 2000 sqm metres
- Flood Alleviation Schemes
- Wind farm applications with >5 turbines
- Applications for >100 dwellings
- Waste transfer sites
- Applications subject to Environmental, Transport or Retail Assessment
- Tourism/Leisure > £1 million

**13.9.5** The range of planning applications that will be dealt with at Officer, Local Planning Committees and the Parent Planning Committee are detailed in Appendix V to this report.

**13.9.6** The Council should note that it is recommended that the amended Scheme of Delegation as outlined within this report will apply retrospectively to all planning applications submitted to East Ayrshire Council that have not yet been determined.

**13.9.7** In addition, Council is advised that the Head of Planning and Economic Development intends to review the format of planning reports submitted to Committee with a view to providing a more simplified and streamlined format to assist Elected Members' deliberations. The Head of Planning and Economic Development will report back to the principal Planning Committee on proposed draft formats for that Committee's consideration.

## **14. PLANNING COMMITTEE DECISION MAKING STRUCTURE**

**14.1** As a consequence of the effects of the new legislation, including the widening of permitted development rights to householders, the increase in the number of planning applications to be dealt with at Officer level, and the greater strategic focus by Elected Members on fewer, major development applications, it is proposed to reduce the number of Local Planning Committees from 3 to 2. A Northern Local Planning Committee covering Wards 1 to 5 and a Southern Local Planning Committee covering Wards 6 to 9.

**14.2** Further, to provide for a proper focus on the planning function within any review of the Council's decision making structure, it is proposed to establish a principal or "parent" Planning Committee which would have responsibility for dealing with planning applications that have been referred up from the Local Planning Committees.

**14.3** Further, after an appropriate time, an operational assessment of the implications of the new planning legislation and the level of business transacted by Local Committees will be carried out to determine whether a further review of the planning decision function is required. Such a review may include the reduction of Planning Committees to one main Committee.

**14.4** The review will also give consideration to the operation of the Local Government Licensing Panel with a view to establishing a single regulatory Committee dealing with all Licensing and Planning applications. Such a review would be the subject of a further report to Council for its consideration.

**15. OTHER QUASI-JUDICIAL FUNCTIONS ETC: INTERIM ARRANGEMENTS PENDING FINAL APPROVAL OF SCHEME OF DELEGATION**

**15.1 LOCAL GOVERNMENT LICENSING PANEL**

No amendments are proposed at this stage but as previously intimated further consideration may be given to incorporating the Local Government Licensing and Planning functions into a single regulatory Committee. In the meantime, the Terms of Reference would be as existing.

**15.2 APPEALS/RECRUITMENT FUNCTIONS**

Rather than establishing individual Sub-Committees for the various undernoted functions, each meeting would be populated from the full Council on a rotational basis and would apply the Terms of Reference, composition and exclusions as detailed within Appendix VI to this report.

**16. INTERIM ARRANGEMENTS**

**16.1** Irrespective of whatever decision making structure the Council agrees, it is suggested that the new arrangements do not take effect until August 2007 after Council recess. The delay in the introduction of the new arrangements would provide for the preparation of the Scheme of Delegation, appropriate protocol documents and meetings calendar to reflect the new structure. In the event that a Cabinet system is adopted, then the time will also be utilised to provide for induction/training of Elected Members and Officers. A full report on the new operational arrangements will be submitted to the meeting of Council on 28 June 2007.

**16.2** In the meantime, interim decision making arrangements are suggested to cover the period from 18 May to 29 June 2007.

**16.3 Meetings Calendar**

The attached meetings calendar (Appendix VII) for the period in question provides for further meetings of the full Council to be held on 7 and 28 June to deal with all service issues requiring decision outwith Officer delegation. In respect of educational issues, provision will be made for Church representatives to attend in accordance with the statutory requirements, as

well as the other (non-Councillor) Trade Union and Parent Representatives which the Council has always traditionally appointed on a non-statutory basis. The calendar also provides for meetings of the new Local Planning Committees and meetings of the new Local Community Planning Forums (if agreed by Council).

#### **16.4 Community Grants**

The new Local Community Planning Forums will primarily be dealing with normal business in accordance with the existing Terms of Reference and the main area of activity is expected to be in the processing of Community Grant applications for local community groups. To this end, Appendix VII details the proposed breakdown in respect of each of the new Community Planning Forums.

#### **16.5 Appeals**

The Appeals mechanisms as identified within this report will operate as normal on an ad hoc basis as and when required.

#### **16.6 Members' Services and Civic Ceremonial**

In respect of the Members' Services and Civic Ceremonial Sub-Committee, it is proposed that in the interim period pending a report to Council on 28 June, that arrangements in respect of the co-ordination and decisions upon proposals for Members' attendance at conferences, all ceremonial matters and provision of Civic receptions and hospitality be remitted to the Chief Executive in consultation with the respective Chair or Spokesperson, whichever is applicable, in regard to Member attendance at conferences, and in respect of all other Civic Ceremonial etc matters, the Provost.

#### **16.7 Emergency Powers**

It is also proposed that the interim arrangements also provide for the calling of an Emergency Powers Committee as and when required under the existing Scheme of Delegation.

### **17. RECOMMENDATIONS**

It is recommended that Council:-

#### **17.1 A New Decision Making Structure**

- (i) give consideration to establishing a Cabinet/Executive; a Thematic Committee or a streamlined Service Specific Committee decision making structure. Model examples are provided within report.
- (ii) populate the decision making structure approved at (i) above with Elected Members in accordance with the proportionality formula wherever applicable.

- (iii) following determination of, and appointments to, the preferred decision making structure model, remit to the Chief Executive to submit to the Council meeting on 28 June, a report covering all operational procedures, including Scheme of Delegation, Meetings Calendar, and other protocol documents which are required for approval.

## **17.2 Developing Community Engagement**

- (i) approve, in principle, the development of three Local Community Planning Forums for the Northern Area - Wards 1 and 6, the Central Area - Wards 2, 3, 4 and 5, and the Southern Area - Wards 7, 8 and 9;
- (ii) remit to the Depute Chief Executive/Executive Director of Corporate Support to establish an Officer Working Group to progress this initiative and report back to a future meeting of Council with a view to introducing the new arrangements from 1 April 2008 and that prior to that date the three new Local Community Planning Forums would operate in accordance with the Scheme of Delegation and that Community Representatives from the predecessor Local Committees be invited to attend the relevant Local Community Planning Forums.
- (iii) approve the disbursement to the revised Local Committees (as proposed) of Community Grants funding for 2007/08 as detailed in Appendix VIII;

## **17.3 Planning Function**

- (i) agrees that the Local Planning Committees be reduced from three to two, namely Northern Local Planning Committee covering Wards 1 to 5 and Southern Local Planning Committee covering Wards 6 to 9 and that a principal or parent Planning Committee be established to deal with referrals from the Local Committees;
- (ii) agrees that in respect of the Planning functions, the Council approve the amendments to the Scheme of Delegation as detailed in Appendix V;
- (iii) agrees that the amended Planning Scheme of Delegation apply retrospectively to all planning applications submitted to East Ayrshire Council that have not yet been determined;
- (iv) remits authority to the Head of Planning and Economic Development to carry out a review of the format of Planning Committee reports and report back to an appropriate meeting of the parent Planning Committee in due course.

#### **17.4 Interim Arrangements**

- (i) approves the interim arrangements and meetings calendar as detailed in paragraph 16 and Appendix VII be agreed.
- (ii) otherwise notes the report.

Fiona Lees  
Chief Executive

14 May 2007

BW/FM

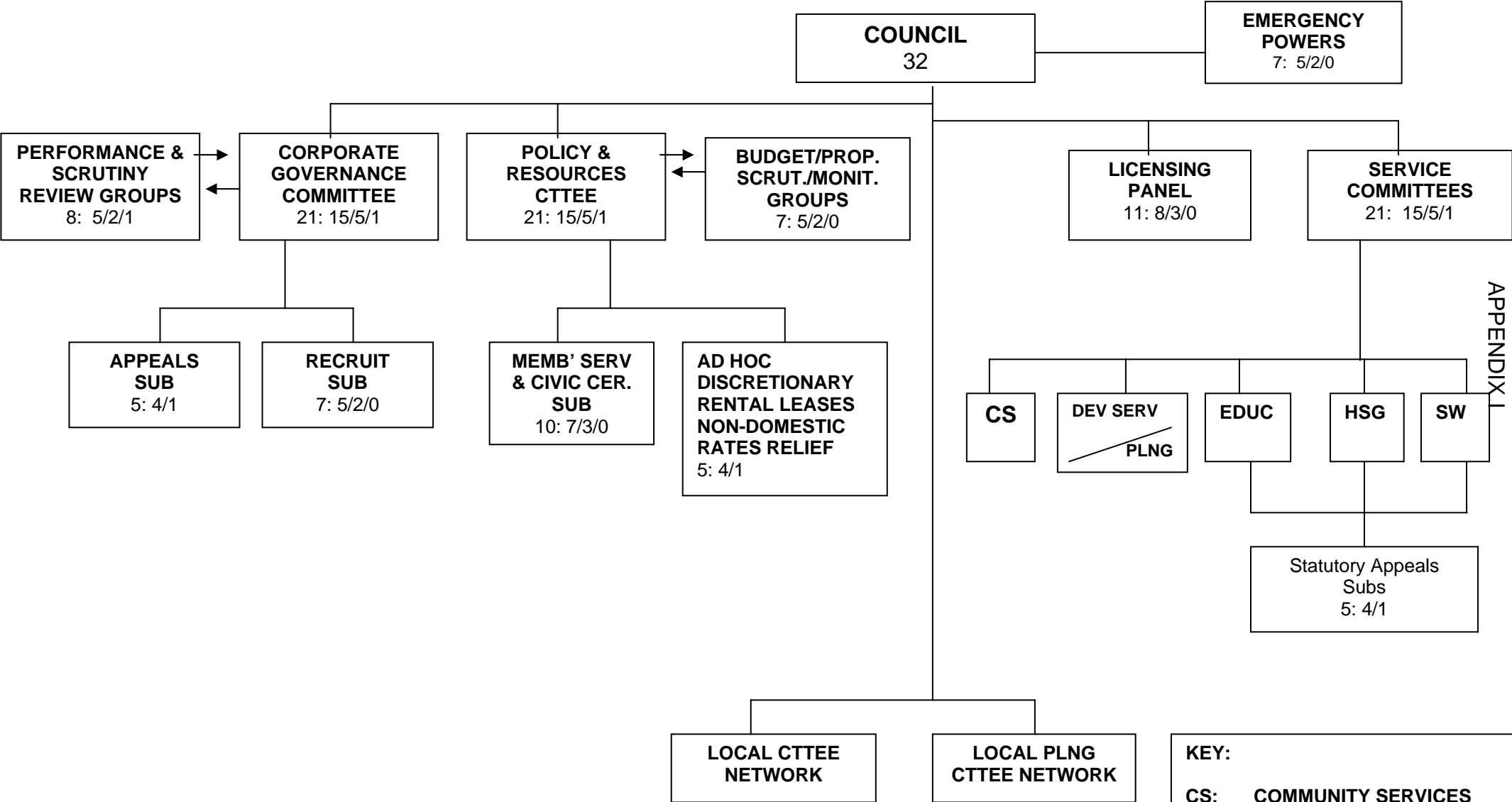
#### **LIST OF BACKGROUND PAPERS**

1. Planning (Scotland) Etc Act 2006
2. Modernising the Planning System 2005
3. Planning Bulletin: Issue No 25 2007;
4. Planning Reforms; and
5. Impact Assessment 2005.

Any person wishing to inspect the background papers pertaining to the Planning review should contact David Morris on (01563) 576753.

**Implementation Officer: Bill Walkinshaw, Head of Democratic Services (in respect of Planning Function: Alan Neish, Head of Planning and Economic Development)**

**COMMITTEE STRUCTURE - EAST AYRSHIRE COUNCIL**



APPENDIX I

**KEY:**  
 CS: COMMUNITY SERVICES  
 EDUC: EDUCATION  
 HSG: HOUSING  
 SW: SOCIAL WORK  
 DEV: DEVELOPMENT SERVICES

EXECUTIVE FUNCTION

EXECUTIVE/CABINET

**8-10 members including Member(s) of Opposition. For example refer to page 21**

- Implements policy framework
- Takes all key strategic and service delivery decisions (excluding business with remit of Council)

COUNCIL

- Sets Council's Revenue/Capital budgets
- Elects Provost/Depute Provost
- Approves the Council's decision making process and departmental structures
- Appoints Members to serve on Cabinet/Executive Committees/Scrutiny Panels, outside agencies
- Hold Executive to account with reports from Governance Scrutiny Committee and question time
- Considers motions for debate on certain issues
- Delegation of functions to officers
- Matters which cannot by law be delegated

REVIEW AND SCRUTINY FUNCTIONS

GOVERNANCE AND SCRUTINY COMMITTEE

**11 members (5/5/1), no members of Executive/Cabinet. Chair: Member of main Opposition**

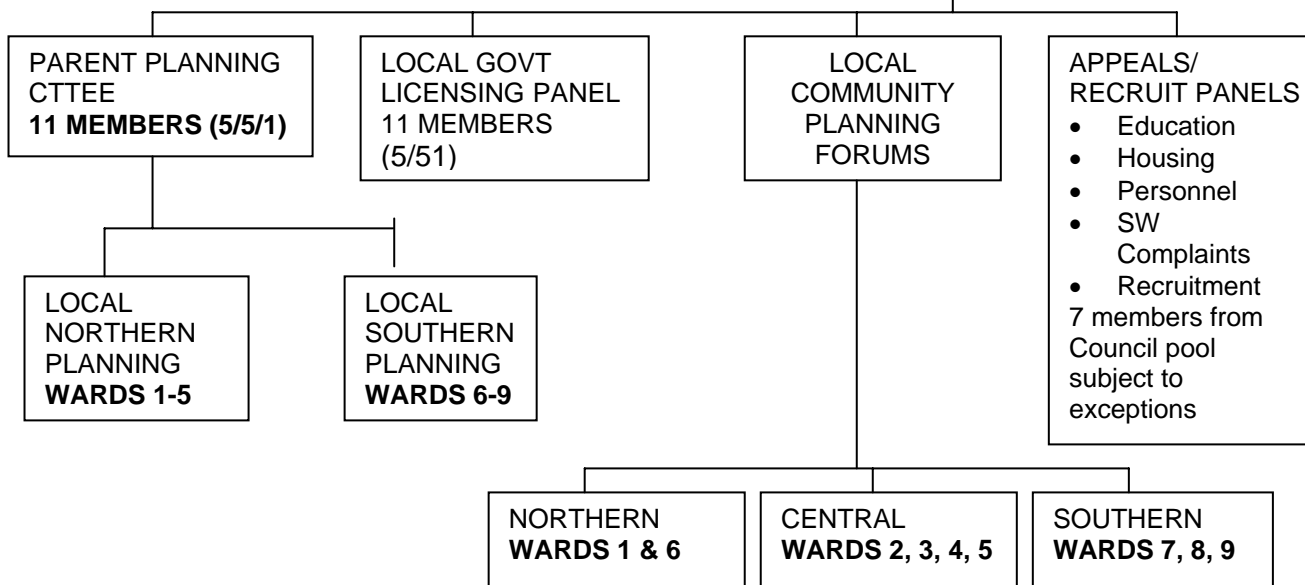
- Overall responsibility for scrutiny and review
- Holding Executive/Cabinet to account
- Performance review, resources, audit, risk management and corporate governance matters
- Promoting and maintaining high standards of conduct amongst members
- Making recommendations to the Executive/Cabinet and or Council
- Setting and monitoring annual scrutiny work programmes
- Selection of inquiry topics and approval of project outlines and plans
- Appointment of ad hoc scrutiny panels

STANDING SCRUTINY PANELS

**9 members (4/4/1) no members of Executive/Cabinet. Chairs: Members of main Opposition**

- Budget Scrutiny
- Environment and Regeneration
- Community Wellbeing
- Lifelong Learning

Carry out scrutiny inquiries/tasks and make recommendations on findings to Governance & Scrutiny Committee



## **POSSIBLE CABINET/EXECUTIVE COMPOSITION**

### **Leader of Council and Spokesperson for Community Planning and Equalities**

#### **Depute Leader of Council and Spokesperson for Management and Resources**

Focussing on the overall management of the Council activities:

- Cross-cutting policy overview
- Management of Council's resources and assets - People, finance, systems and technology and property
- Overseeing all corporate non-themed service functions

#### **Two spokespersons for Environment and Regeneration**

focussing on Community Planning themes, aspirations and aims in terms of:

- Improving opportunities
- Improving the environment

covering -

Economic Development, Employment Initiatives, Planning and Building Standards, Structure Planning, Roads and Transportation, Tourism, Environmental Health, Cleansing and Waste Disposal, Leisure and Recreation Development, Grounds Maintenance

#### **Two spokespersons for Community Wellbeing**

Focussing on Community Planning themes, aspirations and aims in terms of

- promoting community safety
- improving health
- eliminating poverty

covering -

Social Work Services, Housing, Road and Community Safety, Consumer Protection, Registration and Burial Ground Services, Emergency Planning, Street Lighting, Community Health and Chemistry and Public Analyst's Services.

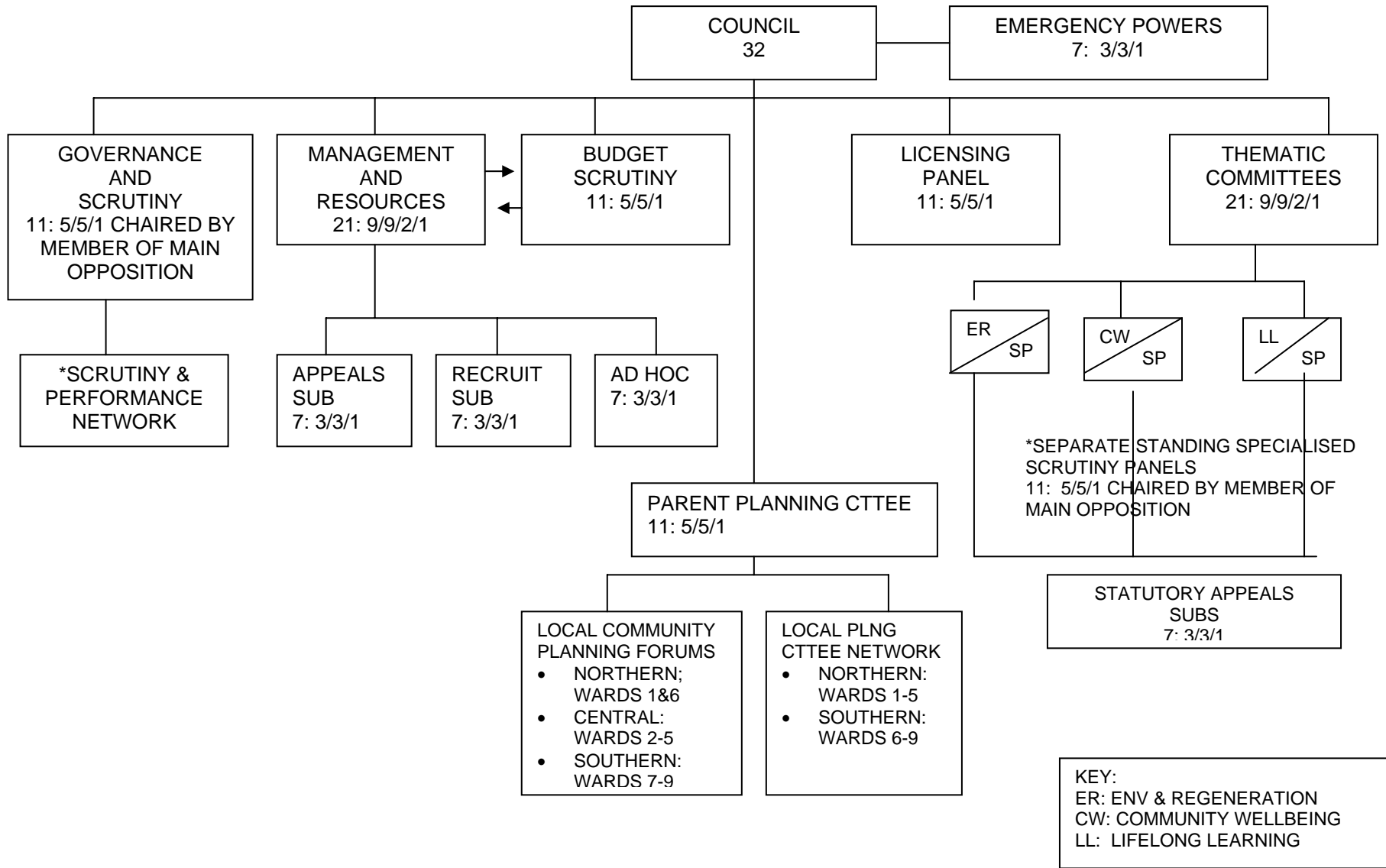
#### **Two spokespersons for Lifelong Learning**

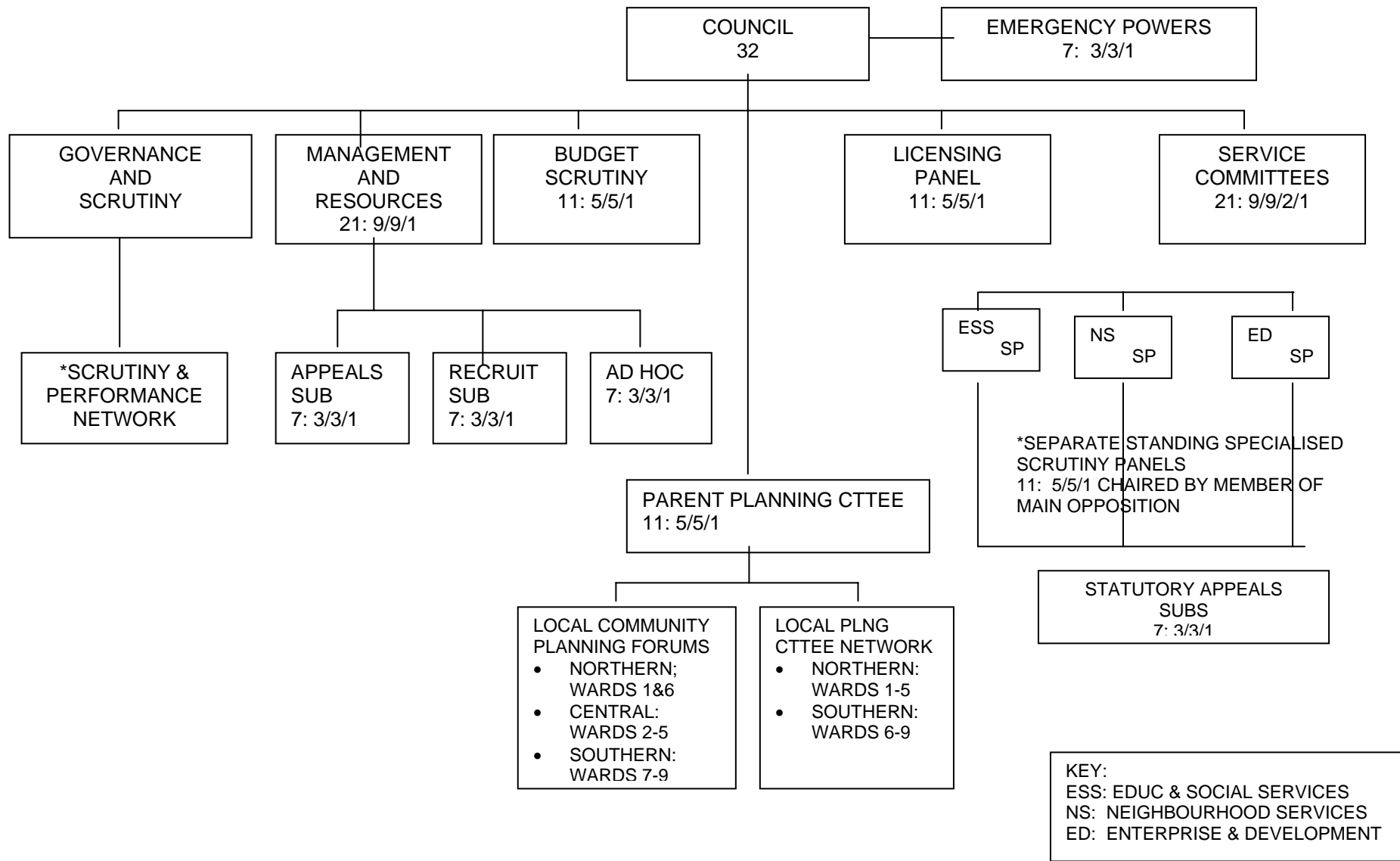
Focussing on Community Planning themes, aspirations and aims:

- promoting Community Learning covering -

Educational Services, Pre-Five, Community Learning and Development, Teaching, Community Art, Libraries, Museums and Art Galleries.

#### **Member of Opposition (Leader)**





## APPENDIX V

### PLANNING DELEGATION

#### OFFICER DELEGATION

All applications, be they recommended for approval or refusal **UNLESS**:-

- they fall into the “major development” category as defined within the national planning framework,
- Valid planning objections have been timeously received from more than 10 separate households or organisations or other third parties,
- The Head of Planning and Economic Development is recommending approval for a proposal which is a significant departure from the Development Plan or an emerging Development Plan (where that can be viewed as a material consideration)
- Where there is an unresolved objection from a statutory consultee such that approval of the application would amount to a significant departure from the existing (or emerging) Development Plan.
- Where the Head of Planning and Economic Development considers that the application raises new or significant issues meriting determination of the proposal at committee.

**Major Development Applications** will comprise the following proposals: *(Depending upon the emergence of further guidance from the Scottish Executive, this list may require amendment),*

- Retail/Warehousing Developments over 2000 sqm meters
- Industrial Developments over 2000 sqm metres
- Flood Alleviation Schemes
- Wind farm applications with >5 turbines
- Applications for >100 dwellings
- Waste transfer sites
- Applications subject to Environmental, Transport or Retail Assessment
- Tourism/Leisure > £1 million

#### FURTHER FUNCTIONS REMAINING DELEGATED TO OFFICERS

- Certificates of Existing/Proposed, Lawful Use or Development.
- Prior Notification of Agricultural and Forestry Buildings, relevant development by Electricity and Gas suppliers, demolition of buildings, Toll road facilities
- Claims for Hazardous Substances Deemed Consent
- Making Provisional TPO
- Section 75 Agreements, where application is delegated.
- Enforcement Actions, provided any costs are within Corporate Support Revenue budgets
- Consultations with the neighbouring planning authorities regarding planning applications

- A decision on whether or not an EIA is required and the adoption and notification of a screening and/or a scoping opinion under the Environmental Impact Assessment (Scotland) Regulations 1999 in respect of the need for and content of an Environmental Impact Assessment.
- Initiate and confirm road stopping up procedures where a planning consent is in place.
- Refusals on basis of insufficient information. (objections or not).

## **LOCAL COMMITTEE DELEGATION**

- “major developments” category as defined within the national planning framework (see below for examples),
- Valid planning objections have been timeously received from more than 10 separate households or organisations or other third parties,
- Where the Head of Planning and Economic Development is recommending approval for a proposal which is a significant departure from the Development Plan or an emerging Development Plan (where that can be viewed as a material consideration)
- Where there is an unresolved objection from a statutory consultee such that approval of the application would amount to a significant departure from the existing (or emerging) Development Plan.
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**Major Development Applications** will comprise the following proposals: *(Depending upon the emergence of further guidance from the Scottish Executive, this list may require amendment),*

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- Wind farm applications with >5 turbines
- Applications for >100 dwellings
- Waste transfer sites
- Applications subject to Environmental, Transport or Retail Assessment
- Tourism/Leisure > £1 million

## **PARENT PLANNING COMMITTEE DELEGATION**

- Applications referred from Local Committee as the relevant Local Committee decides against recommendation of Head of Planning and agrees approval of an application which is a significant breach of Council Policy OR refusal of an application on the basis of the principle of that development and where the principle is in accordance with the East Ayrshire Local Plan.

## **APPENDIX VI**

### **APPEALS PANEL**

#### **(a) Composition**

Seven available Elected Members of the Council (3/3/1). (3 a quorum).

Chair shall be the Chair or Spokesperson of the Management and Resources Committee/Portfolio and one of two other Members from the Administration.

The Chair and Members of an Appeals Sub-Committee will not include the Chair or Spokesperson of the relevant Service Committee for the Department in which the appellant is employed or the Local Member of the Ward in which the appellant resides.

#### **(b) Terms of Reference**

1. To consider grading appeals by employees in terms of the Scheme of Salaries and Conditions of Service for Local Government Employees and Craftpersons and the Scottish Joint Negotiating Committee for Local Authority Services (Chief Officials) and to make decisions thereon.
2. To determine appeals against:-
  - (a) withholding of annual increment;
  - (b) final warnings administered by Executive Directors in terms of the Council's Disciplinary Procedures;
  - (c) demotion;
  - (d) fixed term punitive suspensions; and
  - (e) dismissals.
3. To uphold or reject such appeals or order the varying of the disciplinary action taken.
4. To decide upon grievances raised by Local Government Employees, Craftpersons and Chief Officials under the Council's Approved Grievances Procedures.

#### **(c) Delegated Powers**

Full delegated powers to uphold or reject grievance, grading or disciplinary appeals, or to order the varying of disciplinary action taken in respect of Local Government Employees, Craftpersons and Chief Officials.

#### **Note**

Membership for the individual panels will be arranged by the Depute Chief Executive/Executive Director of Corporate Support in consultation with Leaders of the Administration and Opposition.

## **RECRUITMENT PANEL**

### **(a) Composition**

Number of Councillors 7 (3 a quorum). (3/3/1). Chair - In respect of Chief Executive and Executive Directors posts, the Chair shall be the Leader of the Council. In respect of Executive Heads/Heads of Service posts the Chair shall be the respective Chair or Spokesperson of the Service.

Leader and Depute Leader of the Council; Chair or Vice-Chair or Spokesperson of the responsible Service for the vacant Chief Officers post or their nominees and three Members of the main Opposition party and one member from the other Opposition party.

### **Note**

\*Membership for the individual panels will be arranged by the Depute Chief Executive/Executive Director of Corporate Support in consultation with the Leaders of the Administration and Opposition.

### **(b) Terms of Reference**

To short-leet, interview and appoint applicants for Chief Officers posts within the Authority.

### **(c) Delegated Powers**

Full delegated powers to deal with all matters detailed within the above Terms of Reference.

## **EDUCATION APPEALS PANEL**

### **(a) Composition**

Number of Councillors - 7 (3 a quorum) (3/3/1)

### **(b) Terms of Reference**

The power to determine appeals made in terms of disciplinary procedure and procedure for settling grievances contained in the conditions of service, for all who are employees subject to teachers' conditions of service (excluding dismissal which shall be dealt with by the Education Committee).

The power to uphold or reject such appeals, to order the varying of disciplinary action taken and to dispose of all issues arising from appeals heard in terms of the said procedure for settling grievances.

The power to determine appeals made in terms of Section 28(h) of the Education (Scotland) Act 1980, i.e. appeals against a decision to exclude a pupil and in terms of Section 63 of the Education (Scotland) Act 1980, i.e. appeals against decisions about records of children or young persons.

The Appeals Sub-Committee is authorised to consider and dispose of cases relating to children and young people in cases where the authority has refused a placing request and there is no Co-ordinated Support Plan (CSP) in place, or for whom no CSP assessment has occurred.

In places where the Authority has refused a placing request and there either is a CSP in place, or there has been an assessment for a CSP but one has not yet been prepared, or the Authority has decided that no CSP is required, then the matter will be automatically referred to the Additional Support Needs Tribunal and will be administered in accordance with Section 18 and Schedule 2 of the Education (Additional Support for Learning) (Scotland) Act 2004 and any subsequent regulations and guidance issued by the Scottish Ministers.

## **EDUCATION (JOINT APPEALS AND BURSARIES) PANEL**

### **(a) Composition**

Number of Councillors - 7 (3 a quorum) (3/3/1)

### **(b) Terms of Reference**

The power to determine appeals relating to certain further education and higher school bursaries for which East Ayrshire Council has direct responsibility.

The power to consider points of principle relating to bursary awards and to advise and make recommendations to the Education Committee on the Council's Policy.

The power to determine appeals relating to access or amendment of pupil or student records.

The power to determine exceptional payments to increase individual bursaries up to a maximum of £500 per annum in order to alleviate cases of severe hardship.

### **(c) Delegated Powers**

Full delegated powers to determine appeals relating to bursaries and appeals relating to access to or amendment of pupil or student records.

To hear and determine appeals from teachers in respect of decision by the Executive Director of Educational and Social Services to issue a Final Written Warning or apply any punitive sanction as described in Paragraph 5.2(d)(i) and 5.2(d)(ii) of SNCT 18 "Revised Disciplinary Framework" issued on 27 November 2002.

### **(c) Delegated Powers**

Full delegated powers to determine the above appeals heard by the Sub-Committee.

## **HOUSING APPEALS PANEL**

### **(a) Composition**

Number of Councillors - 7 (3 a quorum). (3/3/1).

**(b) Terms of Reference**

To consider all appeals made in respect of decisions taken in terms of the Council's housing policies and procedures, appropriate legislation and regulations.

**(c) Delegated Powers**

The Sub-Committee shall have full delegated powers to uphold or reject appeals.

**SOCIAL WORK COMPLAINTS REVIEW PANEL**

**(a) Composition**

Number of Members - 7 "independent persons".

Members to be selected on each occasion from a maintained pool of "independent persons" from outwith the Authority. The Panel is maintained by the Executive Director of Corporate Support (Administration & Legal).

**(b) Terms of Reference**

To examine objectively and independently the facts of a complaint, as presented by (i) the complainant, and (ii) officials, and to make recommendations to the Social Work Committee or equivalent.

The following types of complaints will be excluded from the remit of the Sub-Committee:-

- (i) vexatious complainers, where the same complaint is repeated although the substance of the complaint has been dealt with and no issues are being raised (positively agreed by the Executive Head of Social Work and the Social Work Chair or Vice-Chair);
- (ii) complaints regarding Social Work procedures where there is an in-built appeals system, e.g. via Children's Hearing System - re-parental access to children in care; and
- (iii) complaints where there is obviously no substance to the complaint (positively agreed by the (Executive Head of Social Work) and the Social Work Chair or Vice-Chair).

**(c) Delegated Powers**

Nil.

**AD-HOC DISCRETIONARY RENTAL LEASES/NON-DOMESTIC RATES RELIEF APPEALS PANEL**

**(a) Composition**

Number of Councillors - 7. (3 a quorum) (3/3/1).

The Chair of the Appeals Sub-Committee shall be the Chair or Vice-Chair of the Policy and Resources Committee.

**(b) Terms of Reference**

1. To consider appeals against the decision of the Executive Director of Development and Property Services in relation to the grant of discretionary rental leases for non-domestic Council properties.
2. To consider appeals against the decision of the Executive Director of Corporate Support or Executive Head of Finance in respect of all mandatory and discretionary non-domestic rates relief.

The Chair and Members of an Ad-Hoc Appeals Sub-Committee will not involve the Local Member of the Ward in which the appellant resides or has his/her place of business.

**(c) Delegated Powers**

Full delegated powers to uphold appeals and to order grant of discretionary rental leases for non-domestic Council properties and grant of mandatory and discretionary non-domestic rates relief.

**Note**

Membership for the individual panels will be arranged by the Depute Chief Executive/Executive Director of Corporate Support in consultation with the Leaders of the Administration and Opposition.

**MEETINGS CALENDAR - 17 MAY - 29 JUNE 2007**

<b>DATE/TIME OF MEETING</b>	<b>NAME OF CTTEE/SUB ETC</b>	<b>LODGEMENT DATE</b>	<b>*PRE-AGENDA MEETING DETAILS</b>	<b>ISSUE AGENDA</b>
<b><u>MAY 2007</u></b>				
THURS 31/5/2007 1400 HOURS	NORTHERN LOCAL COMMUNITY PLANNING FORUM	THURS 17/5/2007	MON 21/5/2007	TUES 22/5/2007
<b><u>JUNE 2007</u></b>				
FRI 1/6/2007 1000 HOURS	SOUTHERN LOCAL PLANNING	WED 23/5/2007	-	FRI 25/5/2007
TUES 5/6/2007 1400 HOURS	CENTRAL LOCAL COMMUNITY PLANNING FORUM	TUES 22/5/2007	THURS 24/5/2007	FRI 25/5/2007
<b>THURS 7/6/2007 1000 HOURS</b>	<b>COUNCIL</b>	<b>THURS 24/5/2007</b>	<b>TUES 29/5/2007</b>	<b>THURS 31/5/2007</b>
TUES 12/6/2007 1030 HOURS	LICENSING BOARD	-	-	-
THURS 21/6/2007 1400 HOURS	SOUTHERN LOCAL COMMUNITY PLANNING FORUM	THURS 7/6/2007	MON 11/6/2007	TUES 12/6/2007
FRI 22/6/2007 1000 HOURS	NORTHERN LOCAL PLANNING	WED 13/6/2007	-	FRI 15/6/2007
<b>THURS 28/6/2007 1000 HOURS</b>	<b>COUNCIL</b>	<b>THURS 14/6/2007</b>	<b>TUES 19/6/2007</b>	<b>THURS 21/6/2007</b>
FRI 29/6/2007 1000 HOURS	SOUTHERN LOCAL PLANNING	WED 20/6/2007	-	FRI 22/6/2007

\* Chairs to determine time of Pre-Agenda.

## EXISTING FUNDING FORMULA FOR LOCAL COMMITTEES

The Community Grants budget is allocated to Local Committees taking into consideration issues of deprivation using the Scottish Index of Multiple Deprivation (SIMD) 2006 and Small Area Population Estimates (SAPE).

The following SIMD statistical areas and SAPE are used:

- The total population within each committee area
- The number of population within each area that is within the top 15% deprived areas
- The number of population within each area that is within the 15-30% deprived areas
- The number of elderly population (age 60+) within each committee area
- The number of young people (age 0-24) within each committee area

Points were awarded based on these statistics, the total points allocated are then expressed as a percentage for each committee area and this percentage is applied to the distribution of the total grant fund.

**2005 MID YEAR ESTIMATES OF POPULATION & SIMD 2006**

Local Committee Area	Total Pop	15% SIMD Pop	x2	15-30% SIMD Pop	Tot Depriv Points	x60%	Elderly Pop 60+	x20%	Young People Age 0-24	x20%	Total Points	%	Allocation 2007/08
Central	43521	9749	19498	9568	29066	17440	9904	1980.8	12538	2507.6	116957	37.52	£76,204
Northern	35695	1482	2964	6523	9487	5692	7487	1497.4	10666	2133.2	72658	23.31	£47,341
Southern	40184	10088	20176	14941	35117	21070	9299	1859.8	12138	2427.6	122096	39.17	£79,553
East Ayrshire	119400										311710	100	£203,098