

EAST AYRSHIRE COUNCIL

COUNCIL MEETING - 12 OCTOBER 2006

APPOINTMENT OF EX OFFICIO JUSTICE OF THE PEACE

Report by Head of Administrative and Legal Services

1. PURPOSE OF REPORT

- 1.1 To invite the Council to appoint an elected Member as ex officio Justice of the Peace and to advise of the criteria applied in respect of such appointment, and some of the duties involved

2. BACKGROUND

- 2.1 A Local Authority is entitled to nominate up to one quarter of its Members for appointment as ex officio Justices of the Peace (ie no more than eight for East Ayrshire). These nominations can be made by East Ayrshire Council any time after the Local Government elections. The appointments are not effective until the nominations or "Commissions" as they are called, are notified to and duly acknowledged by the Secretary of Commissions.
- 2.2 A vacancy exists following the death of Councillor Daniel Coffey.

3. CRITERIA FOR APPOINTMENT

- 2.1 Ex officio Justices are subject to the same terms of appointment as those appointed by Scottish Ministers and the same general criteria are therefore relevant when making nominations of ex officios.
- 3.2 The main consideration is that a candidate should be personally suitable as respects character, integrity and understanding and should generally be recognised as such by those among whom he or she lives and works. There are various matters which have been considered as an impediment to appointment, eg certain types of employment such as Police service render a candidate unsuitable.
- 3.3 In terms of the Bail, Judicial Appointments Etc (Scotland) Act 2000 all ex officio Justices require to be placed on the Supplemental List of Justices which means in practice that ex officio Justices can only perform signing duties. Therefore, ex officio Justices cannot serve on the bench in the District Court. In addition, signing duties do not include the signing of warrants.
- 3.4 There is nothing to prevent the Council from nominating Members who have previously held ex officio JP appointments. All nominations for appointment, including re-appointments require to be formally intimated to and acknowledge by the Secretary of Commissions.

4. LEGAL/POLICY IMPLICATIONS

- 4.1 In terms of the Bail, Judicial Appointments Etc (Scotland) Act 2000 all ex officio Justices require to be placed on the Supplemental List of Justices which means in practice that ex officio Justices can only perform signing duties. Therefore, ex officio Justices cannot serve on the bench in the District Court. In addition, signing duties do not include the signing of warrants.

5. FINANCIAL/COMMUNITY PLANNING ISSUES - Nil.

6. RECOMMENDATIONS

- 6.1 The Council are invited to nominate one Member as an ex officio Justice of the Peace and advise the Clerk of the Peace of the name to be submitted to the office of the Secretary of Commissions.

David Mitchell
Head of Administrative and Legal Services

29 September 2006

JMcG/FM

LIST OF BACKGROUND PAPERS

Nil

Anyone wishing further information should contact David Mitchell, Head of Administrative and Legal Services (Tel No 01563 576161)