

ANGUS COUNCIL

SCRUTINY AND AUDIT SUB-COMMITTEE – 12 JANUARY 2010

REFERRAL MECHANISMS WITHIN STANDING ORDERS

REPORT BY THE CHIEF EXECUTIVE AND DIRECTOR OF CORPORATE SERVICES

ABSTRACT

This Report details the mechanisms that currently exist within Standing Orders to allow elected members to refer a matter to a standing Committee/Sub-Committee or full Council.

1. RECOMMENDATIONS

It is recommended that the Sub-Committee:

- (i) notes the contents of the Report; and
- (ii) notes the mechanisms that currently exist within Standing Orders to allow elected members to refer items to a standing Committee/Sub-Committee or indeed full Council.

2. BACKGROUND

Reference is made to Article 2 of the minute of meeting of the Scrutiny and Audit Sub-Committee of 8 December 2009 wherein it was agreed that the Chief Executive would clarify what mechanism existed to allow elected members to refer a matter to this Sub-Committee.

3. ROLE OF THE SCRUTINY AND AUDIT SUB-COMMITTEE

In the context of looking at existing mechanisms for referring items to the Scrutiny and Audit Sub-Committee it is worthwhile noting the remit of the Sub-Committee, which was agreed by the Strategic Policy Committee on 16 June 2009

- advise the Council on matters relating to the programme of internal and external audit work and findings and recommendations from audit reports”
- Consider reports by the Council's external auditors
- Consider HMIe Reports on individual Schools under general aspects of education provision
- Consider SWIA a summary of Scottish Commission for the Regulation of Care Reports
- Consider Scottish Housing Regulator Reports
- Consider reports by the Accounts Commission/Audit Scotland
- Consider external Statutory Inspection Reports on Council services
- Review the performance and effectiveness of the standard and level of service provided by Council services
- Review the adequacy of the Corporate Governance arrangements, procedures, policies and practices
- Review the adequacy of the arrangements in relation to the assessment and management of risk

- Review and oversee the operation of the Council's complaints procedures
- Consider any report by the Scottish Public Services Ombudsman in respect of any finding of maladministration against the Council
- Promote and maintain high standards of conduct by Councillors, co-opted members and employees, and advise on the adoption or revision of the code of conduct
- Consider matters concerning the establishment, maintenance and public availability of the register of interest of Councillors or employees
- Consider the Council's annual accounts
- Commission an annual programme of reviews

In considering the role of the Scrutiny and Audit Sub-Committee it is clear that it is not to be regarded as a vehicle for dealing with "referred items" in terms of Standing Order 39(3) rather it will work within a clearly defined remit and within the existing framework of Standing Orders.

4. **STANDING ORDERS**

The Standing Orders of Angus Council provide a number of mechanisms which allow an elected member to place an item of business on the agenda of a Council's standing Committee, Sub-Committee or indeed the full Council.

Members will be familiar with the facility that exists under **Standing Order 39(3)** whereby:

- (i) Following a division in Committee (or Sub-Committee), two members immediately indicate that they wish the matter to be referred to the Council (or Committee) for decision; or
- (ii) within three working days of the date of the Committee (or Sub-Committee) meeting (the day of the meeting being considered as one of these days), two members give notice in writing to the Head of Law and Administration that they wish the matter to be referred to the Council (or Committee) for decision.

The provisions as stated above do have some restrictions, these being stated in Standing Order 39(4).

This referral in effect "freezes" the decision taken by the Committee (or Sub-Committee) until such time as the matter is determined by full Council (or Committee).

This existing mechanism is an important strand in the scrutiny process of Council decisions. Indeed the facility exists for referral to Council (or Committee) where no division has taken place at Committee (or Sub-Committee), nor does it require members of a particular Committee (or Sub-Committee) to refer it to full Council (or Committee).

Other mechanisms exist within the Standing Orders which give members the opportunity to place an item on the agenda of a Council meeting, these being:- Standing Order 23 "Questions" , Standing Order 24 "Motions" and Standing Order 35 "Right of members to attend meetings and/ or place items on an agenda".

Standing Order 23 allows a member to put a question to the Provost or to the Convener of any standing Committee relating to the functions of that Committee irrespective of whether the subject matter of the question relates to business which would otherwise fall to be discussed at that meeting, provided that notice in writing of the question, duly signed, has been delivered to the Head of Law and Administration, not later than four working days before the meeting. One supplementary question, limited to clarifying any question given, may be asked by the original questioner.

Standing Order 24 allows a member to propose a motion which does not directly relate to an item of business under consideration of the meeting as long as notice has been given to the Head of Law and Administration at least seven clear days before the meeting. The terms of the motion would then appear as an item of business for consideration at the next ordinary meeting of the Council (or Committee/Sub-Committee).

Standing Order 35 allows a member of the Council, to place an item on a Standing Committee or Standing Sub-Committee's agenda as long as at least 7 clear days notice is given to the Head of Law and Administration.

5. CONCLUSION

In order to get the best out of member scrutiny it is important to ensure that the Scrutiny and Audit Sub-Committee work within a clearly defined remit and within the Standing Orders of the Council.

It is important that the work of the Sub-Committee is seen as complementing the work of service committees rather than duplicating it and that it helps to inform policy development and service performance improvement across the Council. It is also important to emphasise that the scrutiny and audit function relates to the work of the Council.

6. FINANCIAL IMPLICATIONS

There are no financial implications associated with the terms of this report.

7. HUMAN RIGHTS IMPLICATIONS

There are no human rights implications associated with this report.

8. EQUALITIES IMPLICATIONS

The issues dealt within this report have been a subject of consideration from an equalities perspective (as required by legislation). An Equalities Impact Assessment is not required.

9. CONSULTATION

The Head of Finance and the Head of Law and Administration have been consulted on the terms of this report.

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CHIEF EXECUTIVE

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DIRECTOR OF CORPORATE SERVICES

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

L&A/SCH/DM