

ANGUS COUNCIL

12 MAY 2016

**GOVERNANCE ARRANGEMENTS IN RESPECT OF ANGUS INTEGRATION JOINT BOARD
POST INTEGRATION**

REPORT BY SHEONA C HUNTER, HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

This Report sets out the governance responsibilities of the Council in relation to the Integrated Joint Board (IJB) to ensure appropriate arrangements in respect of the Council's internal governance of relevant arrangements.

1. RECOMMENDATIONS

It is recommended that the Council:

- (i) note the recommendations of the Member Officer Group (MOG) in the minute of their meeting dated 31 March 2016 and as attached at **Appendix 1**;
- (ii) consider the options contained in Section 6 of this Report and agree that the Standing Orders and Order of Reference be amended to incorporate within the role of the Policy and Resources Committee the governance functions as detailed within this Report with effect from 1 April 2016;
- (iii) as a consequence of (i) disband the Social Work & Health Committee;
- (iv) consider the need for retention of the Senior Councillor salary as recommended by the MOG for an initial period; and
- (v) agree that the amended Standing Orders and Order of Reference will be brought forward to a future meeting of Angus Council.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- We have improved the health and wellbeing of our people and inequalities are reduced.

3. BACKGROUND

3.1 The Public Bodies (Joint Working) (Scotland) Act 2014 ("the Act") paved the way for the Integration of Health and Social Care. Both NHS Tayside and the Council require to delegate statutory functions to the newly established Angus Integration Joint Board ("the IJB") who, in turn, will direct these functions back to the same bodies to perform. Given these radical changes, issues will invariably arise given the innovative and far reaching implications of the Integration agenda and the challenges faced by the merger of sections of two separate and culturally distinct organisations.

3.2 In order to gauge the impact on the committee structure of these changes the ad hoc Member Officer Group which had previously looked at reviewing the committee structure was re-convened with a remit to consider the future role of the Social Work and Health Committee.

4. KEY ISSUES

- 4.1 The IJB is a new body and, there is a degree of fluidity as to how arrangements will actually work. However, arrangements need to be implemented to ensure as far as officers can currently advise that it will work effectively. These arrangements may be temporary or transitional and will be reviewed in six months once the work of the IJB has settled and roles have developed. The area where transitional arrangements are necessary relate to how the IJB will direct the Council and NHS Tayside in the performance of their functions and how the Council will gain assurance that the services being delivered by the IJB are being delivered in a satisfactory and appropriate manner. In doing this, it is assumed that the IJB will maintain a high level strategic role with the Chief Officer taking over operational responsibility for the actual service delivery. The roles will inevitably develop as the IJB assumes responsibility of its duties. There are however, governance issues which require to be considered and a reporting structure needs to be put in place for the Council to consider any emerging issues.
- 4.2 It is in the interests of both organisations to ensure adequate and appropriate governance arrangements and to monitor the working of these. As services merge and become truly integrated, the Council will have a legitimate interest in monitoring the performance of that integrated service from a financial, risk, performance and audit perspective. Therefore this Report proposes an arrangement which can be reviewed as the services integrate more fully.
- 4.3 The legally binding Integration Scheme which has been entered into between Angus Council and NHS Tayside provides that if there is a breach of the Scheme by NHS Tayside then the Council (not the IJB) will require to action that breach. Similarly, a breach of the Scheme by the Council could lead to action being taken against it by NHS Tayside. It is therefore clear that the IJB has very limited powers of direction over either the Council or NHS Tayside if it considers that a breach of the Scheme has occurred. It is therefore essential that the Council monitors its own performance in terms of the Integration Scheme and also the performance of NHS Tayside to ensure that the Scheme is being fully complied with.
- 4.4 The Act provides that the Council and NHS Tayside carry out a review of the Integration Scheme before the expiry of 5 years from the date it was approved by the Scottish Ministers. In addition, the Act also specifies that on the request of the Council or NHS Tayside, the Council and NHS Tayside must jointly carry out a review of the Integration Scheme for the purpose of identifying whether any changes to the Scheme are necessary or desirable. Measures will require to be put in place to ensure that the Council can monitor the Integration Scheme to identify whether it determines to require a review of the Integration Scheme and to place it in a position to effectively review the Integration Scheme when required.

5. PROPOSALS

- 5.1 The Integration Scheme provides that the Chief Officer will report directly to the Chief Executive of the Council and the Chief Executive of NHS Tayside. In addition, it is proposed that the Chief Officer will be granted the delegated powers in the Council's Scheme of Delegation currently held by the Head of Adult Services (a report amending the terms of the Standing Orders and Scheme of Delegation will be submitted to Angus Council at a future date). In much the same way as officers in the Council can be held to account by either the Chief Executive, or the Council itself (or a Committee of the Council), there requires to be a means by which the Council provide oversight and guidance in the exercise of the functions of the Chief Officer in their capacity as an officer of the Council and for the Chief Officer to advise the Council and seek guidance in respect of the discharge of their statutory functions. It is proposed that this is achieved by the Policy & Resources Committee assuming the roles formerly carried out by the Social Work & Health Committee.
- 5.2 Members will recall that the Council is required by the Social Work (Scotland) Act 1968 to appoint a Chief Social Work Officer for the purpose of their functions under the Act and a significant number of other pieces of legislation. The Chief Social Work Officer will remain a Council employee and will continue to provide an annual report to Scrutiny and Audit Committee and Council. It is proposed that any other audit reports prepared by either the IJB auditor or their external auditors will, if appropriate, be submitted to the Scrutiny & Audit Committee.

- 5.3 The Council will remain the employer of the staff performing the operational services but under the direction of the Chief Officer. However, any legal claim in respect of a function performed by those staff would be made against the Council. In addition, care services provided by the Council will still be registered with the Care Inspectorate in the Council's name; the Council will retain statutory responsibility for services under relevant legislation and will be expected to respond to statutory consultations in respect of that legislation; and the Council will require to enter into contracts providing services in terms of the integrated function. These functions will be transferred to the remit of the Policy & Resources Committee.
- 5.4 There is a requirement that the Council can satisfy itself that it is performing the services it is directed to perform to the required standard (and within the budget set by the IJB). It will require to provide a means whereby it can satisfy itself that it is complying with the provisions of the Strategic Plan produced by the IJB and some inspections and audits will relate solely to a service provided by the Council. e.g. Council care homes. These will, in future be considered by the Scrutiny & Audit Committee.
- 5.5 In addition, the principles contained in Following the Public Pound and Best Value continue to apply to the budgets made available by the Council to the IJB even though the Council is under a statutory duty to make these sums available.

6. **OPTIONS**

The options available to the Council to carry out the foregoing monitoring and scrutiny functions could be carried out in three ways:-

Option 1 - The Scrutiny and Audit Committee

Given the statements above about scrutiny and monitoring, relevant business related to the Council's functions under IJB could be considered under the terms for this committee. The remit of the Scrutiny and Audit Committee as contained within the Order of Reference to Committees could be enhanced to include considering reports of an audit or scrutiny nature relating to the work of the IJB. It is noted that the Council's Audit Plan will continue to include delegated/directed services performed by the Council.

Option 2 – The Policy & Resources Committee

Given that the role of the Council in relation to the IJB will mainly be one of allocation of resources, it is appropriate that the remit of the Policy and Resources Committee could be extended to include consideration of non IJB subjects together with any issues arising in relation to policy matters or to the allocation of resources.

Option 3– Social Work and Health Committee

The existing remit of the Social Work and Health Committee as contained within the Order of Reference to Committees could be amended to specifically undertake a governance function. It must be recognised, however, the strategic decisions about the integrated services for adults and older people rest with the IJB and therefore this option is not recommended for consideration. However, there will remain a requirement for leadership and direction in relation to the implementation of the integration scheme during the initial transition period. It is therefore recommended that the Senior Councillor salary associated with this role be retained for a period of six months. This recognises the significant change that is to be achieved through the integration of health and social care, particularly during the first six months of operation when the demands on this role will be at their greatest while the IJB becomes established.

Further details will be brought forward in a future report concerning the relevant and consequential amendments required to the Councils Standing Orders and related documents and to the Councils Financial Regulations.

7. FINANCIAL GOVERNANCE – DUE DILIGENCE UPDATE

The Angus IJB has received financial due diligence reports on a number of occasions, commencing in September 2015. These reports have provided the IJB with financial information, in accordance with guidance issued by the Scottish Government, to allow assessment of the budgets that will be devolved by Angus Council and NHS Tayside from 1 April 2016. Angus Council's due diligence information was provided in full to the September 2015 IJB meeting, with that in respect of NHS Tayside being provided over the course of three IJB meetings (September 2015, January 2016 and March 2016). An Internal Audit report on the due diligence process will be considered by the audit committees of the 3 bodies in due course.

A significant element of the due diligence process was the identification of financial risks that the IJB required to be aware of and consider in its discussions with Angus Council and NHST Tayside in determining the budgets to be devolved from 1 April 2016. It is considered that the immediate financial risks with regard to the devolved budget from Angus Council e.g. structural overspends, have been addressed through the Adult Services budget established for 2016/17 at the Council meeting on 18 February 2016.

The elongated timescale of the NHS Tayside due diligence process, together with the anticipated agreement of the 2016/17 devolved budget so close to the commencement of the new financial year means that there has been limited opportunity for Council officers to scrutinise this. It is considered that the devolved budget from NHS Tayside will contain significant risk for the IJB such as a significant savings requirement (£2.1 million or 5.5%) without detail at present regarding how this will be delivered. It is highlighted, however, that the risks for Angus Council with regard to the budget devolved from NHS Tayside are mitigated by provisions within the Integration Scheme. These require any overspends arising in 2016/17 and 2017/18 to be addressed by the parent body which devolved the budget. For future budget setting processes, the Council will wish to ensure that there is sufficient time for scrutiny of the devolved budget from NHS Tayside to assess whether this is exposing the IJB and thus council to unacceptable financial risk.

8. FINANCIAL IMPLICATIONS

There are no additional financial implications for the Council arising from the recommendations in this report. Retention of the Senior Councillor salary level carries a cost differential of £5,700 when compared to the salary of a basic grade Councillor but this cost has been allowed for in the 2016/17 Members Services revenue budget.

9. CONCLUSION

The changes required as a result of the integration of Health and Social Care will have a significant impact on the role of the Social Work & Health Committee. There will no longer be a need to consider the provision of that service in the manner previously carried out. It will be for the Council to hold the IJB to account in the delivery of the service through the Chief Officer. The changes proposed to the committee structure and the amended reporting lines are therefore proposed to ensure that the Council discharges its obligations but recognises that the council no longer has the remit to determine policy in relation to the services being delivered at the instruction of the IJB. Members are asked to consider whether there will continue to be a need for a senior councillor to take the political lead in assisting the integration of the two services and to act as the spokesperson on matters which may arise.

NOTE: No background papers, as detailed 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.

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ANGUS COUNCIL

MINUTE of MEETING of the **COMMITTEE STRUCTURES MEMBER/OFFICER GROUP** held in the First Floor Meeting Room, 7 The Cross on Thursday 31 March 2016 at 2.00 pm.

Present: Councillors BRIAN BOYD, LYNNE DEVINE (SUBSTITUTE FOR MAIRI EVANS), ROB MURRAY AND SHEENA WELSH.

Officers – Richard Stiff, Chief Executive, Margo Williamson, Strategic Director – People and Sheona Hunter, Head of Legal and Democratic Services.

Councillor MURRAY, Convener, in the Chair.

Apologies – Councillors Evans and Proctor.

1. APOLOGIES/SUBSTITUTES

Apologies for absence were intimated on behalf of Councillors Ronnie Proctor and Mairi Evans with Councillor Lynne Devine substituting for Mairi Evans.

2. GOVERNANCE ARRANGEMENTS IN RESPECT OF ANGUS INTEGRATION JOINT BOARD POST INTEGRATION

- (i) The MOG considered a draft committee report by the Head of Legal and Democratic Services setting out the background to the creation of a new Integrated Joint Board (IJB) for health and social care integration. The IJB's remit had been set under the terms of a legally binding Integration Scheme entered into between Angus Council and NHS Tayside and approved by the Scottish Government as required.
- (ii) The IJB would take control of adult social care services staff and duties on 1 April 2016. The creation of the IJB brought into question the continuance of the Social Work and Health Committee at least in its current form. It was intended that the report to Angus Council would recommend the MOG's conclusions on the changes in governance.
- (iii) The MOG discussed the options for consideration in the draft report.

The MOG noted the role of the IJB from 1 April 2016 and the not yet settled understanding of the operation of the new organisation. The MOG also noted that employment matters, property and procurement issues and risks remained with Angus Council and the NHS despite operational control of the staff and services being with the IJB. It was noted that the Scrutiny & Audit Committee was not an executive committee and could not therefore make decisions on behalf of the council. The proposed continuation of the remunerated role of the Senior Councillor to April 2017 was supported, the current Vice Convener role should cease.

After careful consideration the MOG agreed to recommend option (ii) – the incorporation of the remit of the Social Work and Health Committee into the remit of the Policy and Resources Committee – and to place any necessary scrutiny work with the Scrutiny and Audit Committee.