

ANGUS COUNCIL

11 MAY 2023

REVIEW OF STANDING ORDERS

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

This Report presents to elected members revised Standing Orders for consideration and approval.

1. RECOMMENDATIONS

The Council is asked to:

- (i) Give consideration to the options detailed in relation to Standing Order 4 and agree on a wording;
- (ii) Note the proposed change of format for elected members' budget proposals in terms of the annual meeting of the Council to set the Council Tax as outlined in paragraph 4 below;
- (iii) Give consideration to the proposed revised Standing Orders including in terms of (i) above and approve them for implementation in terms of the time-frame at (iv) below subject to a direction to the Director of Legal and Democratic Services to draft the relevant provisions of the revised Standing Orders in terms of the agreed wording for (i); and,
- (iv) Agree that the revised Standing Orders will only take effect when the related governance framework documents such as the Order of Reference of Committees and the Scheme of Delegation to Officers have been considered and approved by Council so that the full suite of Angus Council scheme of governance documents as updated come into force at the same time.

2. ALIGNMENT TO THE COUNCIL PLAN

This Report contributes to the achievement of our priority that the council is efficient and effective as detailed in our Council Plan for 2023 – 2028.

3. BACKGROUND

Following the Local Government Elections in May 2022, a Governance Member/Officer Group was re-established to review a number of key documents that make up part of the governance framework for the Council, including the Standing Orders, the Order of Reference of Committees and the Scheme of Delegation to Officers.

The Standing Orders of the Council is the framework as to how the Council conducts its meetings.

The first part of the review by the MOWG was reviewing the Council's Standing Orders.

In terms of the Local Government (Scotland) Act 1973 all local authorities may make Standing Orders. While a number of these Standing Orders are statutory requirements and cannot be changed, each Council has the ability to determine some of its terms.

Officers undertook an extensive re-write of the current version of Standing Orders to ensure that they reflected good practice, were compliant with legislative requirements, and in some cases simplified to assist members and the general public understand how meetings operated and the rules governing such meetings.

The Governance MOWG met on several occasions and thoroughly reviewed and scrutinised all of the Standing Orders. The current version is attached at **Appendix 1** with the proposed revised version attached at **Appendix 2**. To assist members and in keeping with how the MOWG considered any proposed changes, a comparison table has been prepared which highlighted the changes, this is attached at **Appendix 3**.

4. PROPOSALS

While a comparison table has been prepared which summarises proposed changes to Standing Orders, it is appropriate to highlight in this Report what might be regarded as the more significant changes as follows: -

Standing Order 12 Deputations – New Standing Order 11 “Requests to Speak for Items on the Meeting Agenda (other than Planning Applications)”

The Standing Order that related to Deputations has been re-titled “Requests to Speak for Items on the Meeting Agenda (other than Planning Applications)”. (It should be noted that there is a separate Standing Order called “Requests to Speak for Items on the Meeting Agenda (Planning Applications)”

The new request to speak has been changed as follows.

- a) The list of exceptions where requests will not be permitted have been extended to include
 - an item that is exempt or confidential,
 - an item relating to staffing terms and conditions of any body or organisation to which a councillor has been appointed or nominated by the Council and,
 - an item in respect of any live litigation that the Council is involved with.
- b) No Request to Speak will be heard if a Request to Speak has been previously granted on the same matter and no change of circumstances has occurred.

One member of the MOWG did not agree with the restriction which does not allow a request to speak if this relates to “staffing conditions of service” whether in respect of Council staff or otherwise. It should be noted that the restriction in respect of Council staff had always been part of the Standing Orders. Officers explained this was the position because staff have existing formal routes to deal with any staff issues including through the relevant Trade Union and this was the most appropriate route for staff to raise concerns. Also as staffing conditions of service were operational matters, it was for officers rather than members to engage with and resolve as set out in the Councillors’ Code of Conduct. In addition to this, the Council’s Management Team meet regularly with Trade Union representatives to discuss staffing conditions etc, so this provided another route for such matters.

Officers also explained that the updated Code of Conduct details that the reference to ‘employees’ in terms of the Members/Officer Protocol covers all employees and officers of councils and also all officers and employees of any other body or organisation to which a councillor is appointed or nominated by the Council. (This is a change from the previous Code). Part of the Protocol details that Councillors are required to provide strategic leadership and oversight. This involves setting strategy and policy, scrutinising and making major, complex decisions that concern the Council as a whole. Councillors are not, however, responsible for operational management (being the planning, organising and execution involved in day to day activities) as this is the role of employees. Chief Executives and senior employees have ultimate responsibility to ensure that the Council meets its responsibilities. Arguably staffing matters would extend to staffing matters of such bodies or organisations in defined in terms of the protocol, hence the reason why this update was being recommended.

Standing Order 15 Order of Debate. Now Standing Order 14. Order of Debate at Meetings

Members can ask more than one question. This formalises what in effect has been the accepted practice at meetings. This will of course always be subject to the ruling of the Chair of the meeting.

Standing Order 23 Suspension of a Member

Suspension of a member was found to be not competent and has been removed. Elected members do not have this power to suspend.

Standing Order 25 Notice of Motions. Now Standing Order 24. Notices of Motions

This extends the period for lodging motions to 14 days. The current 7 days is extremely challenging in terms of officers advising on and considering the competency of such motions whilst being able to publish the motion timeously along with the agenda papers. It also includes a process for the Chair to determine competency prior to papers being published. The Standing Order provides that prior notice in writing of such motion must be given to the Director of Legal and Democratic Services at least 14 days before the meeting. The Chair can now give a ruling prior to the papers being published, rather than waiting until the meeting.

Standing Order 27 Suspension of Standing Orders. Now Standing Order 25. Suspension of Standing Orders.

This removes the limited number of Standing Orders that can be suspended and details the process to be followed as the current Standing Order was seen to be quite restrictive.

Standing Order 40 Delegations to Committees and Sub Committees. Now Standing Order 36.

SO 40 3(ii) allows, in effect, any two members to set aside a committee decision within 3 working days of it being made and refer it to Council even if they were not involved with or heard the matter at committee. This has been found not to be competent and is not good governance. It also could give rise to challenge as the Committee had taken a decision and technically officers would be authorised to act on that decision.

Standing Orders 41 to 51

Standing Orders 41 – 51 do not relate to Council and Committee meetings and therefore sit better in other parts of the Scheme of Governance. Please see proposals in the Standing Orders Proposed Revisions - Comparison Table forming **Appendix 3** of this report. A further report will be brought on these Standing Orders.

While there was consensus within the MOWG on the vast majority of proposed changes, there are a few issues where there was a difference of opinion. These are as follows:-

Current Standing Order 4 Meeting of the Council to set the Council Tax is currently worded as follows:

- (1) At the annual special council meeting to set the council tax, an elected member or any group of elected members wishing to bring proposals regarding the council's revenue and capital budget:
 - a) must submit a final version, which must be agreed with the Director of Finance, no later than 15 working days before the date set for the council tax setting meeting (or by such shorter period as may be agreed with the Director of Finance).
 - b) Such budget proposals will be published together as part of the council reports for that Council meeting, excluding the rate of council tax to be set, and proposed contributions to and from the Council Reserves (which will be disclosed as part of the formal motion/amendments at the meeting).
 - c) For the avoidance of doubt, this will not prevent an elected member bringing an amendment or amendments, whether forming part of a motion or an amendment to any budget proposals during the Council meeting as provided for in Standing Orders
- (2) An elected member who is moving a motion for the adoption of annual reports, accounts, or budget, or moving an alternative budget may speak for more than the 5 minutes normally applied to movers of motions and amendment.

The wording for Standing Order 4 requires resolution by the Council so that a wording and process be agreed.

The MOWG asked the Director of Finance to draft possible options for their consideration in relation to the current standing order 4 as detailed below:

- 1- Status Quo – proposed budget(s) from a group or groups of elected members are published with the Special Council papers but exclude the level of Council Tax and proposed use of Reserves for any purpose. Publishing a budget is not a pre-requisite to participation at the Special Council meeting. Variations to published budgets and the bringing forward of discrete amendments on specific aspects of the budget at the Special Council meeting are allowed subject to these being confirmed as financially competent.
- 2- Revert to previous practice where only the proposed Administration budget is published with the Special Council papers. Variations to published budgets and the bringing forward of amendments on the whole budget or specific aspects of the budget at the Special Council meeting are allowed subject to these being confirmed as financially competent.
- 3- Publish full details of budget proposals including Council Tax levels and use of Reserves with the Special Council papers so that all aspects of the budget are known in advance. Variations to published budgets and the bringing forward of discrete amendments on specific aspects of the budget at the Special Council meeting are allowed subject to these being confirmed as financially competent.
- 4- Position as now (Option 1) with the exception that any use of Reserves for anything other than balancing the budget and the associated Council Tax position is included in the published papers for the Special Council meeting – this would mean any planned spending from reserves (other than use of Reserves to achieve a balanced budget) would be published in advance. As with Option 1 variations to published budgets and the bringing forward of amendments on the whole budget or specific aspects of the budget at the Special Council meeting are allowed subject to these being confirmed as financially competent.

There was a further option discussed in terms of restricting changes that could be made to the published papers and also setting a cap on the financial amount of any such changes but this was discounted on the basis that it may be seen as unfair and undemocratic and may be legally challenged. It would also restrict members' ability to change things should anything unforeseen happen at a late stage which can occur and has indeed occurred in the past.

There were two separate views in relation to these options 1-4 provided by elected members of the MOWG :

- a. Retain the current wording in Standing Orders (Option 1); and
- b. Opt for Option 4

Officers consider Option 4, which is a slight variation on existing arrangements, to be a suitable approach to adopt – this would help to ensure elected members have all the detail on budget proposals in advance of the Special Council meeting with only the level of Council Tax and consequent use of reserves to achieve a balanced budget to be revealed at the meeting.

Format Of Elected Members Proposals regarding the Council's Revenue and Capital Budget to be brought forward for the Council Tax Setting Meeting

For future Council Tax Setting Meetings, a set of budget papers, (Council Budget Papers) will be brought in the name of the Director of Finance and published as part of the agenda papers. Proposals regarding the council's revenue and capital budget brought by the Administration Group and published as part of the Council agenda papers to the extent that they differ from the Council Budget Papers will be formatted and detailed in the Council papers as the Motion and any proposals regarding the council's revenue and capital budget brought by any one or group of non-Administration elected members and published as part of the Council agenda papers to the extent that they differ from the Council Budget Papers will be formatted and detailed in the Council papers as Amendments. All budgets published in advance of the Council Tax Setting Meeting as part of the Council agenda papers will be known as the Published Budgets.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising directly from this report.

6. EQUALITY IMPACT ASSESSMENT

- 6.1 An Equality Impact Assessment has been carried out and is contained in Appendix 4.

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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Appendices

Appendix 1 Current Standing Orders

Appendix 2 New draft Standing Orders

Appendix 3 Standing Orders Proposed Revisions - Comparison Table

Appendix 4 Equalities Impact Assessment