

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	21 August 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Scheme of Governance Review - 2024
REPORT NUMBER	CORS/24/234
DIRECTOR	Andy MacDonald
CHIEF OFFICER	Vikki Cuthbert, Interim Chief Officer - Governance
REPORT AUTHOR	Martyn Orchard
TERMS OF REFERENCE	17 and 21

1. PURPOSE OF REPORT

- 1.1 This report meets the Council's instruction to report on the operation of the Scheme of Governance annually and makes recommendations for improvement. The report also presents the proposed Council Diary for 2025.
- 1.2 Furthermore, the report meets the instruction from Council at its meeting on 7 February 2024 to the Chief Officer - Governance to report back to Council on the implications of joining 'Nuclear Free Local Authorities', as a result of the petition that had been received.

2. RECOMMENDATIONS

That Council:-

- 2.1 approves Appendix C, Committee Terms of Reference, with effect from 26 August 2024, notes that a further review will be reported to Council in February 2025 following consideration of committee structures by the Governance Reference Group, and instructs the Interim Chief Officer - Governance to schedule a series of meetings from September for the Group to undertake this review;
- 2.2 approves Appendix D, Powers Delegated to Officers, with immediate effect, and delegates authority to the Interim Chief Officer - Governance to make any further changes to Appendix 1 of that document which are necessary to reflect such approval;
- 2.3 approves the revisions to the Standing Orders for Council, Committee and Sub-Committee Meetings as set out in Appendix B, with effect from 26 August 2024;
- 2.4 approves the revisions to the Financial Regulations as set out in Appendix B, with effect from 26 August 2024;

- 2.5 approves the revisions to the Procurement Regulations as set out in Appendix B, with effect from 26 August 2024;
- 2.6 approves Appendix E, Member - Officer Relations Protocol, with effect from 26 August 2024;
- 2.7 approves Appendix F, the Local Code of Corporate Governance, with effect from 26 August 2024;
- 2.8 notes the minutes of the Governance Reference Group of 20 March, 29 April, 9 May, 29 May, 3 June, 20 June and 2 August 2024, as contained at Appendix A;
- 2.9 instructs the Interim Chief Officer - Governance to, following consultation with the Co-Leaders, make all other amendments to the Scheme of Governance which are necessary to reflect the decisions taken by the Council at this meeting in relation to this report;
- 2.10 instructs the Interim Chief Officer - Governance to undertake a comparison of scrutiny models available, to report on these to the Governance Reference Group, including the Convener of the Audit, Risk and Scrutiny Committee, and to make recommendations for enhanced scrutiny within the report on Committee Terms of Reference to be presented to Council in February 2025;
- 2.11 instructs the Interim Chief Officer - Governance to produce (and update and revise from time to time as necessary) a guidance note for Conveners concerning member behaviour in meetings, such note to include reference to relevant provisions in the Standing Orders, Member - Officer Relations Protocol and Councillors' Code of Conduct;
- 2.12 notes the current arrangements for cross-party working and that no additional groups are being proposed at this time;
- 2.13 ratifies the appointment of Mr Doug Haywood to the Education and Children's Services Committee with immediate effect;
- 2.14 approves the Council Diary for 2025 as contained at Appendix G; and
- 2.15 considers the information regarding Nuclear Free Local Authorities contained within the report, and at Appendix H, and determines whether to join that organisation.

3. CURRENT SITUATION

- 3.1 On 5 March 2018, Council approved the Scheme of Governance and instructed the Chief Officer - Governance to report back to Council within 12 months on the operation of the Scheme of Governance documents.

The Scheme of Governance documents are as follows:-

- a) Introduction to the Scheme of Governance
- b) Aberdeen City Council Committee Terms of Reference
- c) Powers Delegated to Officers
- d) Standing Orders for Council, Committee and Sub-Committee Meetings
- e) Financial Regulations
- f) Procurement Regulations
- g) Member - Officer Relations Protocol
- h) Local Code of Corporate Governance
- i) Budget Protocol

- 3.2 On 4 March 2019, Council considered its first review of the Scheme of Governance and further reviews were considered by Council in March 2020, March 2021, February 2022 and June 2023.

- 3.3 The proposals recommended for approval have been subject to discussion with Chief Officers and other relevant officers across the organisation. Meetings of the cross-party Governance Reference Group (GRG) took place on 20 March, 29 April, 9 May, 29 May, 3 June, 20 June and 2 August 2024, where elected members present were provided with an update on progress with the review and invited to consider the feedback submitted by elected members and to share their own feedback. The minutes of GRG meetings are included as Appendix A to the report by way of background.

- 3.4 A separate report on the Budget Protocol was considered at the Council meeting of 3 July 2024 and the revised Budget Protocol was approved.

- 3.5 Some of the documents comprising the Scheme of Governance are appended to the report with track changes indicating the proposed changes/additions. These are preceded by an overarching document (Appendix B) which details the changes across the Scheme of Governance with accompanying rationale.

4. SCHEME OF GOVERNANCE

4.1 Committee Terms of Reference

- 4.1.1 In line with the Council decision of 7 February 2024, when the organisational structure was approved, the Committee Terms of Reference will be reviewed and reported on as part of the next review of the Scheme of Governance in February 2025. However there are some minor changes proposed at this stage, which the Governance Reference Group agreed could be submitted for approval.

4.2 Powers Delegated to Officers

4.2.1 The Powers Delegated to Officers have been reviewed to ensure that the document is reflective of current and pending legislation, as well as operational practice. The review also took account of the recent Best Value recommendation in respect of delegated powers, and looked at whether delegations should remain with officers, or move to committees. The Governance Reference Group concluded that no fundamental changes were required and that the balance between officer and committee delegations was appropriate. The changes appended for members' consideration will enable operation of the respective areas in a more efficient manner and improve operational delivery to citizens as well as internal customers.

4.3 Standing Orders for Council, Committee and Sub-Committee Meetings

4.3.1 The Standing Orders have been reviewed to ensure that any areas for clarification raised at, or in relation to, meetings since the last Scheme of Governance Review have been considered, the relevant Standing Order updated, or a new Standing Order added.

4.3.2 Other, more proactive, changes have been considered by the Governance Reference Group, including the proposal that motions and amendments *must* be submitted to the clerk by 12 noon on the working day before the meeting in terms of Standing Order 29.1, with certain exceptions. In order to facilitate this, it is recommended that Standing Order 10.1 be adjusted to provide at least six Clear Days' notice of meetings rather than five as at present. If Standing Order 29.1 is amended, as recommended, then a new Standing Order 29.4 is proposed which advocates circulating motions and amendments at least one hour prior to the relevant meeting, providing they have been finalised. It is hoped that this will help with the smooth running of meetings and may increase the likelihood of compromises being reached among members.

4.4 Financial Regulations

4.4.1 The Financial Regulations have been reviewed in the context of revisions to other parts of the Scheme of Governance. The proposed changes are very minor in nature.

4.5 Procurement Regulations

4.5.1 The Procurement Regulations have been reviewed in the context of revisions to other parts of the Scheme of Governance and to ensure that the Regulations are in line with the Procurement Manual, relevant legislation and operational practices. Proposed changes relate to the operation of the officer led Demand Management Control Board with regard to business cases.

4.6 Member - Officer Relations Protocol

4.6.1 The Member - Officer Relations Protocol has been reviewed, with an additional section added on Leadership to emphasise member-member relations to reflect the recommendations in the Best Value Thematic Review published by Audit

Scotland in April 2024. There is also reference to the Standards Commission Advice Note on members' rights to access information.

4.7 Local Code of Corporate Governance

4.7.1 Councils are required to have a Local Code of Corporate Governance which creates the backbone for the Annual Governance Statement by providing the sources of assurance against which we will self-evaluate our adherence to CIPFA/SOLACE principles of good governance. This forms part of our Scheme of Governance and is also reviewed annually.

4.7.2 Additions have been made to reflect the introduction of the Budget Protocol, a new platform for public engagement and consultation, and the additional ways in which the organisation builds capacity and capability of officers and members, within the constraints of a shrinking workforce.

4.8 Elected Member Scrutiny

4.8.1 Members of the Governance Reference Group also reviewed options for enhancing elected member scrutiny, in response to the Audit Scotland recommendation that Terms of Reference be reviewed and guidance developed for an enhanced scrutiny process for the Council, recognising that the Audit, Risk and Scrutiny Committee could increase the amount of scrutiny undertaken. The Group will reconvene in the autumn to begin the next review of the committee structure and agreed that it would benefit from understanding more about some of the scrutiny models in operation elsewhere. This will support the making of adjustments to the Council's Terms of Reference if such are deemed necessary or helpful.

4.9 Cross-Party Working

4.9.1 Members are currently included in various cross-party working groups, including those listed below. Audit Scotland recently commented that the last two Best Value Assurance Reports had recommended the need for improved cross-party working and that this has not been fully progressed. It was agreed that proposals for cross-party working would be brought forward annually as part of the Scheme of Governance review.

4.9.2 The committee structure is deliberately lean and over the years Council has sought to keep the number of working groups to a minimum. It is not proposed to add to the list of groups below, instead members are encouraged to participate in the cross-party mechanisms already available.

Name of Group	Remit	Frequency
Governance Reference Group	To agree proposals to Council on the Scheme of Governance	As required in advance of reporting to Council
Members Services Working Group	To discuss and identify solutions for any operational issues that	Approximately five times per year

	impact upon Elected Members and to provide guidance on the learning and development programme for Elected Members.	
Voids Sub-Group	To consider issues relating to void Council houses.	Quarterly

4.10 Guidance Note for Conveners

4.10.1 It is proposed that the Interim Chief Officer - Governance be instructed to produce (and update and revise from time to time as necessary) a guidance note for Conveners concerning member behaviour in meetings, such note to include reference to relevant provisions in the Standing Orders, Member - Officer Relations Protocol and Councillors' Code of Conduct. This note, whilst not technically forming part of the Scheme of Governance, would serve as a convenient and succinct reminder to Conveners and other members about acceptable behaviours in meetings. This would support the recommendations from the Best Value thematic report submitted to Audit, Risk and Scrutiny Committee in May 2024, which referenced the need for improvements in elected member conduct and cross-party working.

4.11 Education and Children's Services Committee - Primary Teacher Representative

4.11.1 The Education and Children's Services Committee has seven persons with voting rights who are not members of the Council. This includes two teachers employed in educational establishments managed by the Council, comprising one representative from primary (including nursery) and one representative from secondary.

4.11.2 Officers have been advised by the EIS (Educational Institute of Scotland) that Pamela Scott, the current primary teacher representative on the Education and Children's Services Committee, is to step down from the role and is to be replaced by Doug Haywood. Miss Scott will now be the substitute primary teacher representative. Mr Haywood is the current primary teacher substitute representative and has previously attended meetings of the committee in place of Miss Scott. A separate process, overseen by the Teachers' Consultative Forum, is in place for the nomination of teacher representatives.

4.11.3 Council is therefore asked to ratify the appointment of Mr Haywood to the Education and Children's Services Committee with immediate effect.

4.12 Council Diary

4.12.1 The proposed Council Diary for 2025 is detailed at Appendix G. The Diary follows a similar pattern to meetings in 2024 and has been subject to consultation. In the event that the committee structure is amended in 2025, the Council Diary would also require to be amended.

5. NUCLEAR FREE LOCAL AUTHORITIES

5.1 At its meeting of 7 February 2024, the Council considered a petition which had met the threshold of 100 valid signatures and which was in the following terms:-

“We the undersigned call upon Aberdeen City Council to support efforts to rid the world of nuclear weapons by endorsing the United Nations treaty To Prohibit Nuclear Weapons (TPNW). We request that the Council join ‘Nuclear Free Local Authorities’ whose aim is to tackle in practical ways and within their powers the problems caused by civil and military nuclear hazards.”

5.2 Ms Emma Morrison, Vice Chair of North East Scotland Campaign for Nuclear Disarmament, Mr Felix Mensah, Treasurer, and Mr Mike Martin, Media Secretary, spoke to the petition at the Council meeting. The Council resolved to instruct the Chief Officer - Governance to report back to Council on the implications of joining ‘Nuclear Free Local Authorities’.

5.3 The stated aims of Nuclear Free Local Authorities (NFLA) are:-

- to identify the impact of national nuclear policy on local communities
- to increase local accountability over national nuclear policy
- to work to minimise nuclear hazards and increase public safety
- to champion the generation of energy using renewables

5.4 In Scotland the following local authorities are members of NFLA: Dundee, East Ayrshire, Edinburgh, Fife, Glasgow, Midlothian, Renfrewshire, Shetland Islands and West Dunbartonshire. The Scottish NFLA authorities meet quarterly receiving reports from their Scottish NFLA Policy Advisor, supported by the NFLA Secretary. The Forum has autonomy to determine its own priorities and an established work programme.

5.5 More information about the work of the NFLA can be found at the following website:- <https://www.nuclearpolicy.info>

5.6 NFLA have advised that the affiliation fee for Aberdeen City Council would be £3,074 per annum and individual memberships are available for Councillors as well. There is currently no budget identified for the annual affiliation fee if the Council is minded to join NFLA.

5.7 An introduction to the NFLA is contained at Appendix H.

6. FINANCIAL IMPLICATIONS

- 6.1 Approving the recommended changes to the Scheme of Governance will have no direct financial implications during the current financial year but will help improve the robust governance framework required to support organisational changes and achieve budget targets. Adhering to the terms of the Financial Regulations, an integral part of the stewardship of Council funds, will ensure that all the Council's transactions are conducted in a manner demonstrating openness, integrity and transparency.
- 6.2 If the Council resolves to join Nuclear Free Local Authorities then a budget requires to be identified in order to pay the annual affiliation fee of £3,074.

7. LEGAL IMPLICATIONS

- 7.1 The Scheme of Governance is designed to assist the Council in complying with its statutory duties and functions whilst also being consistent with the CIPFA principles of good governance against which the Council must provide an Annual Governance Statement as part of its annual accounts. The Scheme of Governance also supports the Council's CIPFA Governance Mark of Excellence accreditation.
- 7.2 The legislative bases for the various documents comprising the Scheme of Governance are set out below.
- 7.3 Section 56 of the Local Government (Scotland) Act 1973 provides that the Council may arrange for the discharge of any of its functions, subject to some exceptions, by a committee or sub-committee. These are set out in the Committee Terms of Reference.
- 7.4 The same section also provides that the Council may arrange for the discharge of any of its functions, subject to some exceptions, by an officer of the Council. Such delegations are contained within the Powers Delegated to Officers. Section 43A of the Town and Country Planning (Scotland) Act 1997 also requires the Council to publish a scheme of delegation setting out how certain planning applications are to be dealt with by officers.
- 7.5 Section 62 of, and Schedule 7 to, the Local Government (Scotland) Act 1973 empowers the Council to make, vary or revoke standing orders for meetings of Council, committees and sub-committees.
- 7.6 Legislation requires the Council to adhere to stringent financial controls and practices. The Financial Regulations are integral to this requirement.
- 7.7 The Procurement Reform (Scotland) Act 2014 must be complied with, and the Procurement Regulations support this whilst empowering staff and promoting Best Value.
- 7.8 The Council is required under Section 47 of the Police and Fire Reform (Scotland) Act 2012 and Section 41E of the Fire (Scotland) Act 2005 to

scrutinise local police plans and local fire and rescue plans respectively. This is undertaken through the terms of reference of the Communities, Housing and Public Protection Committee.

- 7.9 The Council has a general duty under section 149(1) of the Equality Act 2010 (the 2010 Act) to have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Council also has a specific duty under Regulation 5 of the [Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#) to assess the impact of applying a proposed new or revised policy or practice against the needs mentioned in section 149(1) of the 2010 Act.

8. ENVIRONMENTAL IMPLICATIONS

- 8.1 There are no direct environmental implications associated with the report.

9. RISK

- 9.1 The assessment of risk contained within the table below is considered to be consistent with the Council's Risk Appetite Statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No direct risks	N/A	L	Yes
Compliance	Failure to update the Scheme of Governance and implement the necessary changes could expose the	Approval of the proposals and adherence to the specified legislation ensures accountability	L	Yes

	Council to risk in terms of complying with the law.			
Operational	No direct risk	Adherence to the Scheme of Governance protects employees in undertaking their roles, as well as the organisation's buildings, plant and equipment.	L	Yes
Financial	No direct risks	The Scheme of Governance itself mitigates against the risk of poor financial management, poor value for money, fraud and financial loss.	L	Yes
Reputational	Failure to update the Scheme of Governance and make other necessary changes could present a reputational risk to the Council.	Consultation has been undertaken with officers and elected members and recommended proposals have regard to that process	L	Yes
Environment / Climate	No direct risks		L	Yes

10. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
Impact of Report	
Aberdeen City Council Policy Statement <u>Working in Partnership for Aberdeen</u>	The proposals in the report have no direct impact on the Policy Statement

Aberdeen City Local Outcome Improvement Plan 2016-26	
The proposals in the report have no direct impact on the LOIP stretch outcomes.	
Regional and City Strategies	The proposals in the report have no direct impact on Regional and City Strategies.

11. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	An IIA has been completed
Data Protection Impact Assessment	Not required
Other	None

12. BACKGROUND PAPERS

None

13. APPENDICES

- A. Minutes of Meetings of Governance Reference Group of 20 March, 29 April, 9 May, 29 May, 3 June, 20 June and 2 August 2024
- B. Scheme of Governance Review - Summary of Proposed Changes
- C. Committee Terms of Reference
- D. Powers Delegated to Officers
- E. Member - Officer Relations Protocol
- F. Local Code of Corporate Governance
- G. Council Diary 2025
- H. An Introduction to Nuclear Free Local Authorities

15. REPORT AUTHOR CONTACT DETAILS

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