

Notice of Meeting and Agenda Council

Date	Time	Venue
Thursday, 21 December 2017	09:30	Council Chambers (Renfrewshire), Council Headquarters, Renfrewshire House, Cotton Street, Paisley, PA1 1AN

KENNETH GRAHAM
Head of Corporate Governance

Membership

Councillor Jennifer Marion Adam-McGregor: Councillor Tom Begg: Councillor Derek Bibby: Councillor Bill Binks: Councillor Bill Brown: Councillor Stephen Burns: Councillor Jacqueline Cameron: Councillor Michelle Campbell: Councillor Carolann Davidson: Councillor Eddie Devine: Councillor Andy Doig: Councillor Audrey Doig: Councillor Natalie Don: Councillor Alison Jean Dowling: Councillor Edward Grady: Councillor Neill Graham: Councillor Jim Harte: Councillor John Hood: Councillor Lisa-Marie Hughes: Councillor Karen Kennedy: Councillor Scott Kerr: Councillor Paul Mack: Councillor Alistair Mackay: Councillor James MacLaren: Councillor Kenny MacLaren: Councillor Mags MacLaren: Councillor Eileen McCartin: Councillor Colin McCulloch: Councillor Marie McGurk: Councillor John McIntyre: Councillor John McNaughtan: Councillor Kevin Montgomery: Councillor Will Mylet: Councillor Emma Rodden: Councillor Jim Sharkey: Councillor John Shaw: Councillor James Sheridan: Councillor Andy Steel: Councillor Jane Strang:

Provost Lorraine Cameron (Convener): Councillor Cathy McEwan (Depute Convener): Councillor Iain Nicolson (Leader): Councillor Jim Paterson (Depute Leader)

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Items of business

Apologies

Apologies from members.

Declarations of Interest

Members are asked to declare an interest in any item(s) on the agenda and to provide a brief explanation of the nature of the interest.

1 Minutes of Council, Boards and Panels

Minutes attached separately:

Council, 28 September 2017, pages 357-386
Finance, Resources and Customer Services Policy Board, 28 September 2017, pages 387-390
Regulatory Functions Board, 5 October 2017, pages 391-396
Regulatory Functions Board, 1 November 2017, pages 397-404
Education and Children's Services Policy Board, 2 November 2017, pages 405-410
Audit, Risk and Scrutiny Board, 6 November 2017, pages 411-418
Appointment Board, 6 November 2017, pages 419-420
Communities, Housing and Planning Policy Board, 7 November 2017, pages 421-440
Appointment Board, 7 November 2017, pages 441-442
Infrastructure, Land and Environment Policy Board, 8 November 2017, pages 443-458
Finance, Resources and Customer Services Policy Board, 8 November 2017, pages 459-478
Petitions Board, 8 November 2017, pages 479-482
Personnel Appeals and Applied Conditions of Service Appeals Panel, 9 November 2017, pages 483-484
Local Review Body, 14 November 2017, pages 485-488
Regulatory Functions Board, 16 November 2017, pages 489-492
Paisley North Local Area Committee, 16 November 2017, pages 493-498
Renfrew and Gallowhill Local Area Committee, 21 November 2017, pages 499-502
Johnstone and the Villages Local Area Committee, 23 November 2017, pages 503-508
Paisley South Local Area Committee, 28 November 2017, pages 509-512
Houston, Crosslee, Linwood, Riverside and Erskine Local Area Committee, 29 November 2017, pages 513-516
Local Review Body, 5 December 2017, pages 517-520
Personnel Appeals and Applied Conditions of Service Appeals Panel, 6 December 2017, pages 521-522
Regulatory Functions Board, 7 December 2017, pages 523-528
Cross Party Sounding Board, 7 December 2017, pages 529-530
Leadership Board, 12 December 2017 (to follow)
Personnel Appeals and Applied Conditions of Service Appeals Panel, 19 December 2017 (to follow)
Appointment Board, 19 December 2017 (to follow)

2	Scottish Government Budget and Local Government Finance Settlement	
	Report by Director of Finance and Resources (copy to follow)	
3	A Prudential Framework for Capital Finance - Progress Report	9 - 18
	Report by Director of Finance and Resources	
4	Governance Arrangements	19 - 22
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5	Planning - Scheme of Delegation Review	23 - 32
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6	Review of Community Level Governance Arrangements	33 - 50
	Report by Chief Executive	
7	Support to Community Groups	51 - 58
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8	The EU Data Protection Regulation	59 - 66
	Report by Director of Finance and Resources	
9	Standards Commission for Scotland: Decision of the Hearing Panel of the Commission	67 - 78
	Report by Head of Governance as Monitoring Officer	
10	Notice of Motion 1 by Councillors Davidson and Dowling	
	"That Council recognises that the health and mental wellbeing of looked after children in Renfrewshire is extremely important. Council recognises that this group of young people are, on the most, very vulnerable.	
	That Council will set aside a sum of £75,000 for looked after children to enjoy holidays and other learning and cultural activities.	
	This funding will allow this group of young people to enjoy the holidays and cultural learning experiences that their peers in the community enjoy. This will be extremely beneficial to their wellbeing, leading to better positive outcomes for the young people.	
	This sum matches the funding set aside by the previous administration for this purpose."	

11 Notice of Motion 2 by Councillors Graham and Mackay

"Council is concerned that the decision to impose parking charges in Johnstone and Renfrew was taken without proper consultation with the communities and businesses affected.

Council agrees that it will revisit the decision at the first appropriate opportunity."

12 Notice of Motion 3 by Councillors Graham and Mackay

"Council agrees to write to the Scottish Government to request a ban on Electric Shock Collars which has no place in modern dog training."

13 Notice of Motion 4 by Councillors Sheridan and McCulloch

"That this council reviews our current planning procedures to ensure local democracy is paramount and that the best interests of our communities and commerce are protected. Reaffirm communication, transparency and accountability will be at the core of the process. Utility companies defined planned timetables to form part of the application with effective penalties in place. Should statutory legislation be necessary to achieve these objectives then political representation should be made."

14 Notice of Motion 5 by Councillors Sheridan and McCulloch

"This council explores the positive impact of charging utility companies by the hour for road closures and calls on the Scottish government to follow the UK government plans to allow councils to impose similar charges to help reduce lengthy and repetitive roadworks."

15 Notice of Motion 6 by Councillors Mackay and Hood

"The Council calls upon the Government to review the legislation which regulates Public Utilities carrying out works on the roads and pavements. In particular, Public Utilities should be required when carrying out major works, to fit service ducts to minimise the impact of any future works required in the same area."

16 Notice of Motion 7 by Councillors McCartin and Andy Doig

"The Council agrees to develop the post of Makar for Renfrewshire, to ensure that writing and poetry becomes a focus for people in the area. The role of Makar, and what would be expected of her/him, requires to be discussed with the local poetry and writing community throughout Renfrewshire to ensure the best balance for the council and our community."

17 Notice of Motion 8 by Councillors Mackay and Graham

"The Council will no longer provide Elected Members with newspapers and magazines, thus saving an annual cost of nearly £7,000.

Elected Members are already provided with IT equipment costing nearly £53,000, which is capable of accessing news in real time rather than the outdated news provided by the newspapers."

18 Notice of Motion 9 by Councillors Mackay and Graham

"The Council calls on the Scottish Government to change landlord and tenant legislation to give the Council the power to require all landlords letting properties in its area to (i) have an inspection and report of those properties completed by an independent third party specialist surveyor prior to each letting of a residential property and (ii) exhibit this survey to the Council as the authority responsible for registration of private landlords under the Antisocial Behaviour etc (Scotland) Act 2004. This would provide confidence to both landlord and tenant, that let properties meet with the repairing standard."

19 Notice of Motion 10 by Councillors Begg and Mackay

"World War 1 Commemorations

During 2018 this council will support some students from our high schools to visit one or more of the battlefields of Flanders and Northern France to take part in commemorating this one hundredth year since the end of that war.

In particular at least one group should visit in Flanders, near Ypres, Vancouver Corner where the first WMD was used with mustard gas against Canadian Soldiers killing 2000 of them, Passchendaele and the Tyne Cot Cemetery to take in the immensity of our forefathers' sacrifices, Hill 60 where a large German Command Post was blown to smithereens by Commonwealth troops tunnelling underground from the front lines as well as Essex Farm, a dressing station, where Col. John McCrae wrote the famous lines:-

"In Flanders Field the poppies blow
Between the crosses row on row,
That mark our place"

At the end of their tour our students, representing this Council, should participate and lay at least one wreath, in the name of this Council, at the evening service of remembrance at the Menin Gate Memorial in Ypres."

20 Notice of Motion 11 by Councillors Paterson and Grady

"Motion from MSYPs

Renfrewshire Council supports the calls made by its MSYPs to encourage schools to actively engage young people in the development and delivery of Personal, Social and Health Education (PSHE).

Renfrewshire Council acknowledges the work of the MYSPs, through their engagement with around 3000 young people through an online survey, in identifying PSHE as a priority for development.

Council notes that a comprehensive and relevant PSHE programme is essential for helping young people prepare for adulthood. The Council agrees with the MSYPs that a PSHE programme should encourage maturity and be delivered in a manner which demonstrates respect and value for all members of our society.

Council supports the young people's request that they be actively engaged in the development and discussion of the PSHE curriculum so that all young people have equal opportunities in life."

21 Notice of Motion 12 by Councillors Andy Doig and Harte

"Trade Justice
Renfrewshire Council agrees:

To endorse the Trade Justice Scotland Coalition's principles for just trade, as an alternative to trade deals like TTIP and CETA.

That the Leader of the Council should write to the Secretary of State for Communities, Social Security and Equalities; the Cabinet Secretary for Finance and Constitution, and local MPs and MSPs to warn of the impact that a new generation of trade deals might have on Council decision-making after Brexit, and to call for them to endorse the Trade Justice Scotland Coalition's principles for just trade.

That the Leader of the Council will write to COSLA to express concern about the impact that future trade deals, negotiated by the UK government after we leave the EU and modelled on TTIP and CETA, might have on local council decision-making, and ask them to raise these with the UK government and Scottish government on this Council's behalf.

To promote future trade, commerce, and industry, across Renfrewshire with a view to growing the local manufacturing sector and increasing jobs."

22 Notice of Motion 13 by Councillors McCartin and Nicolson

"Council agrees to support the efforts of Paisley Pirates Ice Hockey Club to bring ice provision back to Paisley.

Paisley Pirates have an ambition and a plan to develop a new ice rink in the Paisley area which would be run by them for both their own needs and open to the wider public."

23 Notice of Motion 14 by Councillors Begg and Strang

"Equal Pay

The Elected Members recognise the excellent work done by previous Councils and their officers in reducing this Council's gender pay gap and clearing any backlog of gender equality claims. At a recent board meeting it was stated that a modest five percent remains.

This Council, with four and a half years still to run, commits to taking all reasonable steps to reduce the gender pay gap to zero before the end of that period."

24 Notice of Motion 15 by Councillors Begg and Strang

"Road Laying and Repairs Using Waste Plastic

Over the past few years we have become conscious of the amount of plastics that are going to land fill and being thrown into the sea to the extent that it is a danger to life in our oceans. Claims have been made that waste plastic can be incorporated into asphalt to make and repair our roads reducing the costs and lengthening the life of roads and repairs. It appears to be a win/win situation.

A company started up recently near Lockerbie called MacRebur is promoting and making this product.

It is proposed that a few officers from our council with expertise in this area visit the company to assess the claims and report their findings to councillors before the next full council."

25 Notice of Motion 16 by Councillors Montgomery and Bibby

"Council has serious concerns over the proposed changes in the Boundary Commission for Scotland's 2018 Review of UK Parliamentary Constituencies. In particular concern is expressed at the impact of communities served by the proposed seats of Paisley and Renfrewshire West. Council calls on the Boundary Commission for Scotland to reconsider these proposals in order to safeguard the identities of local communities."



To: Council

On: 21 December 2017

Report by: Director of Finance & Resources

Heading: A Prudential Framework for Capital Finance – Progress Report

1. **Summary**

- 1.1 The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 require the Council to have regard to the Prudential Code for Capital Finance (the Prudential Code) when deciding capital spending limits. The Prudential Code was developed to support and assist local authorities in their capital investment decisions.
 - 1.2 The Council set its prudential indicators for 2017/18 on 16th February 2017. The purpose of this report is to consider the indicators as they stand at 13th October 2017, approximately halfway through the financial year, and revise them as appropriate
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2. **Recommendations**

- 2.1 It is recommended that members consider this report and approve the changes to the prudential indicators as detailed in the report.
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3. **Background**

- 3.1 The Prudential Code was last updated alongside the Treasury Management Code in 2011. CIPFA have recently undertaken consultations for both codes with a view to issuing amended versions in early 2018. This could involve

changes to the format, content and structure of the capital plan and associated indicators which will be reviewed upon release of the updated Code.

3.2 The key objectives of the Prudential Code are to ensure that:

- capital investment plans are affordable, prudent and sustainable
- treasury management decisions are taken in accordance with good professional practice and support affordability, prudence and sustainability.
- capital investment decisions are consistent with, and support, local strategic planning, local asset management planning and proper option appraisal.

3.3 To demonstrate that local authorities have fulfilled these objectives, the Prudential Code sets out the indicators that must be used and the factors that must be taken into account. The Code does not include suggested indicative limits or ratios. These are for the Council to set itself.

The prudential indicators required by the Code are designed to support and record local decision making. The system is specifically designed to support such local decision making in a manner that is publicly accountable.

4 **CAPITAL EXPENDITURE INDICATORS**

4.1 The Council has a duty to determine and keep under review the maximum amount which it can afford to allocate to capital expenditure.

4.2 The Council is required to make estimates of the capital expenditure it plans to incur for the forthcoming financial year and at least the following two years. Separate estimates should be made for Housing and Non Housing services. The Capital Investment Programmes for Housing and Non Housing Capital Investment Programme were approved by Council on the 16th February 2017, the resulting indicators were updated to reflect the approved programme incorporating the decisions taken by the council at the budget meeting.

4.3 Council approved the following as an indicator for capital expenditure:-

CAPITAL EXPENDITURE			
	2017/18 Estimate £'000	2018/19 Estimate £'000	2019/20 Estimate £'000
Non Housing*	75,987	57,833	81,338
Housing	19,895	24,133	21,073
Total	95,882	81,966	102,411

*The 2017/18 Non Housing estimate excludes the estimated expenditure in relation to the Private Sector Housing Grant.

4.4 Total capital expenditure to 13th October 2017 is £29.134m, of which £25.017m relates to Non Housing and £4.117m relates to Housing.

- 4.5 A review of the updated capital spending plan for 2017/18 suggests that the indicators need to be revised as follows for the current year. Indicators for 2018/19 and 2019/20 will be reviewed in February 2018 alongside the budget proposals.

CAPITAL EXPENDITURE	
	2017/18 Probable £'000
Non Housing	73,330
Housing	11,247
Total	84,577

- 4.6 The net decrease of **£2.657m** in the planned Non Housing capital expenditure during 2016/17 is mainly attributable to the net effect of the following factors:

- (i) The carry forward of programmed expenditure from 2016/17 totalling £16.827m.
- (ii) The addition of £3.559m funding for projects approved during 2017/18.
- (iii) The change in the cash flow profile of a number of programmes resulting in a net adjustment of £20.543m from 2017/18 into 2018/19 and future years as reported to relevant policy boards.
- (iv) Reflection of anticipated under-spend on completing programmes.

- 4.7 The decrease of **£8.648m** in the planned Housing capital expenditure during 2017/18 arises from the net effect of:-

- (i) The carry forward of programmed expenditure from 2016/17 totalling £2.112m.
- (ii) The change in cash flow profile of programmes resulting in a net adjustment of £10.760m from 2017/18 into 2018/19 and future years as reported throughout the year to the Communities, Housing and Planning Policy Board.

5 CAPITAL FINANCING REQUIREMENT INDICATOR

- 5.1 *Capital Financing Requirement:* The Council has available to it a number of ways of financing traditionally procured capital investment. The term “financing” does not refer to the payment of cash, but the resources that are applied to ensure that any underlying amount arising from capital payments is dealt with absolutely, whether at the point of spend or over the longer term. A number of financing options involve resourcing the investment at the time that it is incurred. These are:

- Application of useable capital receipts
- A direct charge to revenue for capital expenditure

- The application of capital grants
- Up-front contributions from project partners

5.2 Capital expenditure which is not financed up front by one of the above methods will increase the Capital Financing Requirement of the Council.

5.3 Members approved the following as the indicator for the Capital Financing Requirement at the end of each of the next three years at the Council meeting on 16th February 2017:

CAPITAL FINANCING REQUIREMENT			
	31/03/2018	31/03/2019	31/03/2020
	Estimate	Estimate	Estimate
	£m	£m	£m
Non Housing	271	307	371
Housing	142	146	149
Total	413	453	520

5.4 The revised projected capital financing requirement for 2017/18, based on the position at 13th October 2017 is noted in the table below. The 2018/19 & 2019/20 requirements will be reviewed in February 2018 alongside the budget proposals;

CAPITAL FINANCING REQUIREMENT	
	31/03/2018
	Probable
	£m
Non Housing	253
Housing	127
Total	380

5.5 The decrease of £18 million in the probable Capital Financing Requirement at 31st March 2018 in Non Housing services arises from a lower requirement for prudential borrowing in 2017/18 as a result of the programmes re-profiled from 2017-18 into 2018-19 and beyond described in paragraph 4.6(iii); and also a revision of the debt smoothing strategy.

5.6 The decrease of £15 million in the probable Capital Financing Requirement at 31st March 2018 in Housing services also arises due to a reduction in the estimated requirement for prudential borrowing in 2017-18. This is a result of income from the Right to Buy scheme being higher than originally estimated and the programmes re-profile from 2017-18 into 2018-19 described in paragraph 4.7(ii); and also a revision of the debt smoothing strategy.

6 EXTERNAL DEBT INDICATORS

6.1 External debt is referred to as the sum of external borrowing and other long term liabilities (e.g. covenants). The prudential indicators for external debt are

set and revised taking into account their affordability. It is through this means that the objective of ensuring that external debt is kept within sustainable prudent limits is addressed year on year.

6.2 External debt indicators are set at two levels: an *operational boundary* and an *authorised limit*. Both of these need to be consistent with the Council's plans for capital expenditure and financing and with its treasury management policy statement and practices.

6.3 *Operational Boundary*: This is the focus of day-to-day treasury management activity within the Council, and is an estimate of the most likely scenario in terms of cash flow. Risk analysis and risk management strategies have been taken into account; as have plans for capital expenditure, estimates of the Capital Financial Requirement and estimates of cashflow requirements for **all** purposes. It is possible that this boundary could be breached occasionally and this should not be regarded as significant. However, a sustained or regular trend would require investigation and action.

6.4 The Council has set for the current financial year and following two years an Operational Boundary for its total external debt, identifying separately borrowing from other long term liabilities.

OPERATIONAL BOUNDARY FOR EXTERNAL DEBT			
	31/03/2018	31/03/2019	31/03/2020
	Estimate	Estimate	Estimate
	£m	£m	£m
Borrowing	336	380	449
Other long-term liabilities	77	74	71
Total	413	454	520

6.5 The probable outcome for the current financial year is anticipated at £380 million, a decrease in the Operational Boundary of £33 million. This is mainly as a result of a combination of a lower borrowing requirement in 2017-18 and revised debt smoothing position as outlined in paragraphs 5.5 and 5.6 in relation to the Capital Financing Requirement. There have been no breaches during the period from 1st April to 13th October which have required action. The 2018/19 and 2019/20 operational boundary will be reviewed in February 2018 alongside the budget proposals.

OPERATIONAL BOUNDARY FOR EXTERNAL DEBT	
	31/03/2018
	Probable
	£m
Borrowing	303
Other long-term liabilities	77
Total	380

6.6 *Authorised Limit:* This is based on the same assumptions as the Operational Boundary, with sufficient “headroom” to allow for unusual/exceptional cash movements. Headroom of approximately 5% has been added to the Operational Boundary to arrive at an authorised limit which is sufficient to allow for cash flow management without breaching the limit.

6.7 The Council has set for the forthcoming financial year and following two years an Authorised Limit for its total external debt, but identifying separately borrowing from other long term liabilities.

AUTHORISED LIMIT FOR EXTERNAL DEBT			
	31/03/2018	31/03/2019	31/03/2020
	Estimate	Estimate	Estimate
	£m	£m	£m
Borrowing	353	399	471
Other long-term liabilities	77	74	71
Total	430	473	542

6.8 The revised anticipated authorised limit for this financial year is projected at £395 million, a decrease of £35 million to the estimate and in line with the operational boundary reduction as outlined in 6.5. The authorised limit will be reviewed on an annual basis and any changes will require approval by Council.

AUTHORISED LIMIT FOR EXTERNAL DEBT	
	31/03/2018
	Probable
	£m
Borrowing	318
Other long-term liabilities	77
Total	395

7 LOAN FUND ADVANCES

7.1 Loans fund accounting arrangements have changed from the 1 April 2016 under the provisions of the Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016.

7.2 Repayment of loans fund advances are required to be made in line with the Scottish Government’s statutory Guidance on Loans Fund Accounting.

7.3 The aim of prudent repayment is to ensure that the Council's net capital expenditure is financed over a period of years in which that expenditure is expected to provide a benefit and that the repayment each year is reasonably commensurate with the period and pattern of benefits. Housing and Non-

Housing advances and associated annual repayments are identified separately.

- 7.4 Members approved the 2017/18 policy on loan fund repayments on the 16th February 2017. Statutory guidance requires the policy to be approved each year and the 2018/19 policy will be reviewed in February 2018 alongside the budget proposals.

- 7.5 The Council's current policy is as follows:

For pre-existing loans advances made up to 31st March 2016 and for forward capital expenditure plans made after 1 April 2016, the policy for the repayment of loan advances will be the Statutory Method (option 1), with loan fund advances being repaid by the annuity method.

The repayment of loan fund advances will therefore be equal to the annual amount determined in accordance with Schedule 3 of the Local Government (Scotland) Act 1975. The Council is permitted to use this option for a transition period only until 31st March 2021 at which time it must change its policy to use alternative approaches based on depreciation, asset life periods or a funding/income profile.

- 7.6 The Council's latest estimates of its loan fund account information are as follows:

LOAN FUND ACCOUNTING						
Year	Opening Balance £m	Advances to GF £m	Advances to HRA £m	Repayment by GF £m	Repayment by HRA £m	Closing Balance £m
2016-17 actual	275	21	-	(3)	(24)	269
2017/18	269	38	9	(2)	(11)	303
2018/19 - 22/23	303	187	66	(25)	(58)	473
2023/24 - 27/28	473	-	-	(56)	(36)	381
2028/29 - 32/33	381	-	-	(84)	(28)	269
2033/34 - 37/38	269	-	-	(73)	(25)	171
2038/39 - 42/43	171	-	-	(54)	(33)	84
2043/44 - 47/48	84	-	-	(40)	(12)	32
2048/49 - 52/53	32	-	-	(25)	(1)	6
2053/54 - 57/18	6	-	-	(5)	-	1
2058/59 - 62/63	1	-	-	(1)	-	-

8 **TREASURY MANAGEMENT INDICATORS**

- 8.1 The prudential indicator in respect of treasury management is that the local authority has adopted CIPFA *Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes* (the "Treasury Management Code").

- 8.2 Compliance with the Treasury Management Code requires a mid-year review of Treasury Management activity. This was reported to Finance and Resources Policy Board on 8th November 2017.

9 **INDICATORS FOR AFFORDABILITY**

- 9.1 A key measure of affordability is the incremental impact of investment decisions on the council tax or house rents. Estimates of the ratio of financing costs to net revenue stream provide an indication of how much of the Council's revenue is committed to the repayment of debt.

- 9.2 As reported to Council on 16th February 2017 the ratios for the next 3 years are shown in the table below:

RATIO OF FINANCING COSTS TO NET REVENUE STREAM			
	2017/18	2018/19	2019/20
	Estimate	Estimate	Estimate
Non Housing	4.79%	5.57%	5.93%
Housing	43.84%	45.08%	45.06%

- 9.3 There is no material change to the above ratios or to other estimates of affordability for 2017/18.

- 9.4 The actual indicators will be reported to the Council in the annual accounts

Implications of the Report

1. **Financial** – Prudential indicators are being monitored by the Director of Finance and Resources throughout the year. They are based directly on the Council's Capital and Revenue budgets, as detailed in the other reports considered by the Council on 16th February 2017 and reported to the Council's Policy Boards on a regular basis.
2. **HR & Organisational Development** – None
3. **Community/Council Planning** – None
4. **Legal** – None
5. **Property/Assets** – None
6. **Information Technology** – None
7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** - None
9. **Procurement** - None
10. **Risk** - None
11. **Privacy Impact** - None
12. **Cosla Policy Position** – None

List of Background Papers

- (a) Non-Housing Capital Investment Programme 2017/18 – 2019/20, Appendix 6: Prudential Framework for Capital Finance 2017-18 -2019/20 (estimates) and Treasury Management Strategy Statement 2017-18. Council, 16th February 2017.

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To: Council

On: 21 December 2017

Report by: Director of Finance and Resources

Heading: Governance Arrangements

1. Summary

- 1.1 The purpose of this report is to seek approval to a number of changes to the Council's governance arrangements.
- 1.2 At present the Community Asset Transfer Review Sub-Committee is made up of members from the Communities, Housing and Planning Policy Board. It is proposed that this is changed to the Infrastructure, Land and Environment Policy Board.
- 1.3 The remit for the Regulatory Functions Board requires to be changed to explicitly include functions relating to Houses in Multiple Occupancy (HMOs).
- 1.4 The Council at its meeting held on 28 September 2017 noted the resignation of the representative of Paisley Action for Churches Together as this organisation had now closed and agreed that a nomination for the third church representative be sought from the Renfrewshire Evangelical Alliance of Churches. Unfortunately, no response has been received to date and it is proposed therefore that an advertisement be placed in the local and national press and on the Council's website seeking nominations for the third church representative. Details are provided at paragraphs 3.3 to 3.5 below.

- 1.5 There is currently no delegated power to send members to conferences or seminars without prior Board approval. The Council has previously approved a number of conferences in respect of which no further approval is required. It is proposed to add to this that members be permitted to attend any conference/seminar which is free of charge and which is held in Scotland.
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2. Recommendations

- 2.1 That the membership of the Community Asset Transfer Review Sub-committee be drawn from the Infrastructure, Land & Environment Policy Board to comprise any five members of the Policy Board provided three are from the Administration and two from the opposition groups or parties. The Sub-committee to be chaired by either the Convener or Depute Convener of the Board;
- 2.2 That the Remit of the Regulatory Functions Board be extended to cover Part 5 of the Housing (Scotland) Act 2006.
- 2.3 That it be delegated to the Head of Corporate Governance to make the necessary changes to the Council's Scheme of Delegated Functions.
- 2.4 That an advertisement be placed in the local and national press and on the Council's website seeking nominations for the third church representative to the Education and Children's Services Policy Board.
- 2.5 That members be permitted to attend any conference/seminar which is free of charge and which takes place in Scotland and that the list of approved conferences be amended to reflect this.
-

3. Background

Community Asset Transfer Review Sub-committee

- 3.1 The existing arrangements for the Community Asset Transfer Review Sub-committee (which had been established previously in terms of the Community Empowerment (Scotland) Act 2015) is that the sub-committee's membership is drawn from the Communities, Housing & Planning Policy Board to comprise any five members of the Policy Board provided three were from the Administration and two from the opposition groups or parties; the Sub-committee to be chaired by either the Convener or Depute Convener of the Board. However, to acknowledge that the remit of the sub-committee is to consider property issues and the delegation to consider any property issues arising from the Community Empowerment (Scotland) Act 2015 lies with the

Infrastructure, Land & Environment Policy Board, it is therefore proposed that the membership of the sub-committee is drawn from that Board rather than from the Communities, Housing & Planning Policy Board.

Regulatory Functions Board

- 3.2 It is proposed that in relation to the Board's HMO licensing role in terms of Part 5 of the Housing (Scotland) Act 2006, that this should be explicitly included within the Board's remit.

Third Church Representative on Education and Children's Services Policy Board

- 3.3 Section 124 of the Local Government (Scotland) Act 1973 provides that where an education authority appoints a committee whose purposes include advising the authority on any matter relating to the discharge of their functions as education authority or discharging any of those functions of the authority on their behalf, three of the members to be appointed (who shall not be members of the education authority) shall be church representatives. One of the three places must be filled in accordance with the Act by a nomination from the Church of Scotland and one by the Roman Catholic Church.
- 3.4 In the selection of the third person the Act specifies that the authority shall have regard (taking account of the representation of the Roman Catholic Church and the Church of Scotland) to the comparative strength within the area of all the churches and denominational bodies having duly constituted charges or other appointed places of worship therein.
- 3.5 The Council at its statutory meeting held on 18 May 2017 agreed to the appointment of Reverend Graham Currie, the nominee of Paisley Action for Churches Together. That organisation has now closed and Reverend Currie has resigned from the Education and Children's Services Policy Board.

Elected Member Attendance at Conferences and Seminars

- 3.6 The Council has previously approved a list of regular events that elected members may attend. The attendance at any other events not included on the list, even where the events are free of charge requires prior Board approval. This is considered to be unduly restrictive and it is proposed that elected members are able to attend any conference and seminar provided that it is free of charge and is held in Scotland.

Implications of the Report

1. **Financial** - None
2. **HR & Organisational Development** – None
3. **Community/Council Planning** – None
4. **Legal** - None
5. **Property/Assets** - None
6. **Information Technology** - None
7. **Equality & Human Rights**
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – None
9. **Procurement** - None
10. **Risk** – None
11. **Privacy Impact** – None
12. **Cosla Policy Position** – N/A

List of Background Papers - None

Author: Lilian Belshaw, Democratic Services Manager, 0141 618 7112



To: The Council

On: 21st December 2017

Report by: Director of Development & Housing Services

Heading: Planning – Scheme of Delegation Review

1. Summary

- 1.1 The Planning etc (Scotland) Act 2006 introduced a mandatory requirement for Councils to adopt a Scheme of Delegation which allows officers to take decisions on (a) applications for planning permission and (b) applications for consent, agreement or approval required by a condition imposed on a grant of planning permission.
 - 1.2 The Council, at its meeting on 28 September 2017 considered and agreed that a review of the existing Scheme of Delegation for planning applications be brought forward to this meeting for consideration.
 - 1.3 This report seeks to provide an assessment of the terms of the review that The Council asked to be considered and sets out alterations to the Scheme of Delegation which if acceptable will require the approval of Scottish Ministers prior to implementation.
-

2. Recommendations

- 2.1 Members are asked to approve:
 - (i) That the Scheme of Delegation be amended as set out in Appendix 1 (by adding paragraphs (d), (e) (f) and (g) to the exceptions); and to make corresponding amendments to the terms of reference for the Communities Housing and Planning Policy Board;

- (ii) That in terms of the 'Planning Function', the Scheme of Delegation be amended to include "The Director of Development and Housing Services, the Head of Planning and Housing Services, and the Manager and Assistant Managers within Development Standards, and the Strategy and Place Manager and the Development Plans and Housing Strategy Team Leader as appointed officers, are authorised to determine" the specified matters.
 - (iii) That the Scheme of Delegation as amended, and insofar as it relates to planning functions, be referred to Scottish Ministers for approval and confirmation of the process will be reported to a future meeting of the Council.
-

3. Background

- 3.1 The Planning etc (Scotland) Act 2006 introduced a mandatory requirement for the adoption of a Scheme of Delegation which allows Officers to take decisions on (a) applications for planning permission and (b) applications for consent, agreement or approval required by a condition imposed on a grant of planning permission.
- 3.2 The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 defines applications by category (depending on site area, floor space or number of housing units) as 'National' 'Major' or 'Local'. The current scheme delegates all matters other than those falling within the categories of 'national' or 'major' to an appointed officer (subject to the discretion of the officer to refer any application to the Board for determination; and subject to any application being subject to 'call-in' as set out in the Scheme of Delegation Protocol).
- 3.3 Where a planning authority propose to adopt a Scheme of Delegation, or where they propose to change an existing scheme, they must send a copy of the scheme to the Scottish Ministers and the planning authority must not adopt the scheme until it has been approved by Scottish Ministers.
- 3.4 The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 also requires that planning authorities must prepare a scheme of delegation at intervals no greater than every five years. Renfrewshire Council's Scheme of Delegation was last reviewed, and subsequently approved by Scottish Ministers, in October 2013.

4 Council Motion

- 4.1 The Council, at its meeting on 28 September 2017 considered and agreed that a review of the Scheme of Delegation for planning applications be brought forward to this meeting as follows:-

“The review is to consider amending the Scheme with regard to the Planning function and delegation and specifically but not exclusively the following:

Applications to be considered by the full board:

Any application subject of objection by a Community Council where those objections are relevant material considerations.

Any application which raises significant objections.

Any application which if approved would be contrary to the development plan.

The report to full Council should also consider the following change in process and its implications. The weekly planning list shall contain a schedule with the Planning Officer’s recommendation on an application.

At the end of a seven day period the recommendation will become the decision of the Planning Authority unless the Head of Housing and Development receives from a Councillor a written objection to the recommendation outlining relevant planning reasons and requesting that the application is referred to the Communities, Housing and Planning Policy Board for determination. Such requests must reach the Head of Housing and Development before the deadline shown in the weekly list /schedule.”

5 Observations and Comments

- 5.1 With regard to the proposition that “**Any application subject of objection by a Community Council where those objections are relevant material considerations**” should be referred to the Communities Housing & Planning Board; Council may wish to note that not all Community Council areas are ‘active’ and using this criterion, to trigger an application going for Board determination, would not offer an equitable opportunity across the entire Council’s area.
- 5.2 Similarly, Council may wish to consider the implications that a requirement for Board consideration may result from a blanket trigger of Community Council objection. This may draw in householder, minor commercial and industrial development which may not otherwise merit the scrutiny of the Communities Housing and Planning Policy Board.
- 5.3 Council may wish to consider whether there exists an alternative means of bringing an application before the Board, which would otherwise be a Delegated matter, and where there would be equity for those areas which do not have active Community Councils.
- 5.4 It is suggested that extending the element of the Scheme of Delegation Protocol, which enables a matter to be considered for Board decision where a letter signed by three members is received within 21 days of the application appearing on the Weekly List would be appropriate.
- 5.5 The implication of this is that the Scheme of Delegation would authorise the Convenor, in consultation with the Head of Planning and Housing, to

determine which matters would proceed to the Board for determination where such a request has been received.

- 5.6 With regard to “***Any application which raises significant objections***”, Council is asked to consider whether there is a risk of focussing on only those applications which have generated objections as opposed to the substance of the applications themselves.
- 5.7 An application which has attracted no adverse comment is not necessarily acceptable if it does not comply with the Development Plan or is not acceptable in any other material respects; similarly, an application which has attracted objections is not rendered unacceptable by this alone.
- 5.8 Setting specific numbers of representations for bringing applications before the Board e.g. more than ten or fifteen objections, could result in the threshold being perceived as a ‘target’ to be attained and one where, in a context of social media and multiple channels for making an objection, may not necessarily reflect genuine local or wider public concern.
- 5.9 Certain types of commercial activity, such as proposed hot food shops, can also generate objections which can often be attributed to concerns from competitors, rather than material planning matters. Similarly, “*raises significant objections*” is a subjective term which could relate to either the number of, or the substance of, the objections.
- 5.10 The Scheme of Delegation requires to be clear in setting out what does and does not fall within its ambit to ensure that both officers and elected members can take decisions which are *vires*.
- 5.11 An individual may perceive their single objection as significant if they are the only party which could be impacted by a proposal; whereas a large number of objectors, although many not immediately impacted by a proposal may feel their representations should carry greater weight by sheer force of numbers.
- 5.12 As such it is suggested that rather than relying on a subjective term related to a potentially arbitrary number of objections, the Scheme of Delegation should be revised, insofar as planning applications falling into the category of ‘local’ are concerned, to remove applications for residential development involving 10 houses or more on Greenfield sites, or on sites greater than 0.5 ha in area (equivalent to a ten-house development); or five houses or more on Green Belt sites, or on sites greater than 0.3 ha in area (equivalent to a five-house development).
- 5.13 These thresholds would coincide with the definitions of strategic / significant scales of development set out in Clydeplan 2017 and the Adopted Renfrewshire Local Development Plan Housing Land Supply Supplementary Guidance 2015 respectively.
- 5.14 Council should also give consideration to any other type of application which it is reasonable or proportionate to take out of the Scheme of Delegation.

Applicants for industrial, retail and commercial developments, particularly those with employment creating potential, generally seek certainty and speed of decision making in considering their investment decisions.

- 5.15 It is therefore suggested that no change be made to the current scheme so that those proposals seeking to contribute to sustainable economic growth continue to have a speedy and definite route for determination. Those developments of a retail, commercial or industrial nature falling within the category of 'major' or 'national' would continue to be presented to the Board for determination.
- 5.16 With regard to ***“Any application which if approved would be contrary to the Development Plan”*** Council may wish to consider whether it is appropriate to qualify this requirement. Many applications may conflict with the Development Plan in a minor or technical respect, for example, small scale retail and hot food uses outwith defined centres but on overall assessment would be otherwise acceptable.
- 5.17 Council is invited to consider that it would be beneficial to only require 'any application which if approved would be **significantly** contrary to the development plan' to be presented for Board determination; and also those where the proposals, if approved, would also be significantly contrary to the overall objectives, and would undermine the aims and strategic priorities, of the Local Development Plan.
- 5.18 With regard to consideration of changes to process to 're-introduce' the **publication of a weekly list of proposed decisions**, Council is reminded that as a consequence of the introduction of the local review procedure, it decided in 2009 that it was necessary to discontinue the arrangement of circulating on a weekly basis the list of reports in relation to applications which were to be determined under delegated powers.
- 5.19 Such a practice implied the acquiescence of members in the decision and therefore would be prejudicial to any subsequent review. Furthermore, the process operated when the decision making Board met on a three-weekly cycle; as opposed to the current ten / eleven week cycle.
- 5.20 Members should also be aware of the practical and procedural implications of a process where a 'decision' is delegated but subject to caveats. The most obvious issues arising relate to:
- (a) were a member to indicate disagreement with a 'proposed decision' and submits an objection outlining planning reasons for doing so, he/she would have in effect expressed a view on the merits of the application and in line with the Code of Conduct would debar themselves from participating in making a decision as a member of the Communities Housing and Planning Policy Board.
- (b) where a Member requests that a decision be taken out of the scheme of delegation, the Communities, Housing and Planning Policy Board will require to formally decide whether or not to agree to such a request; and if they do, they are required to record the reasons for doing so and to notify the applicant

of the reasons. Should the Board agree that the matter be one for the Board to decide, a report would require to be presented to and formally considered at a subsequent meeting of the Board and could therefore introduce significant delay.

(c) where an applicant is aggrieved by a decision made by an appointed officer under the scheme of delegation, either to refuse permission or to impose conditions; the current procedures result in the matter coming before Renfrewshire Council's Local Review Body for reconsideration and whose decision is final. Where these decisions are instead taken by the Communities, Housing and Planning Policy Board, the 'appeal' mechanism would no longer reside with members of Renfrewshire Council but would instead 'bypass' review at the local level, and become a matter for a Reporter appointed by the Scottish Government's Directorate of Planning and Environmental Appeals.

(d) There is a statutory obligation to determine 'local' applications within 8 weeks. There is also an ongoing obligation in terms of Scottish Government expectations on performance that the average time taken to process such applications is reduced and is less than the statutory maximum.

Where applications are to be 'called-in' after a 'proposed decision' has been indicated, the timescales for reaching decisions will be significantly extended and is likely to have a significant adverse effect on performance.

- 5.21 Current practice is to seek to conclude assessments and reach decisions on local applications at about week six or seven if possible; and to issue decision notices immediately thereafter. Depending on when a 'proposed decision' may be called-in, the decision making process could be extended by an additional two months.
- 5.22 Members should also be aware that if a decision is not made within the initial statutory two month period, applicants can seek an appeal on the basis of non-determination and this would again 'bypass' both the Communities, Housing and Planning Policy Board and/or the local review body and become a matter for a Reporter from the Directorate of Planning and Environmental Appeals.
- 5.23 Having regard to the foregoing, the Scheme of Delegation is considered to generally remain fit for purpose both in terms of decision making accountability and consideration of third party representations; and in terms of optimising performance and fulfilling applicants expectations of a timeous decision.
- 5.24 The applications which have proved more contentious have generally related to new residential development on undeveloped land and it is recommended that the scheme of delegation be amended such that these types of development be presented to the Communities Housing and Planning Policy Board for determination.
- 5.25 Furthermore, to ensure that members are made aware of those decisions which continue to be made under delegated authority, it is recommended that

a list be published fortnightly which details those decisions which have been taken and that this list be circulated to all elected members.

- 5.26 As a result of continuing reviews of structures, vacant posts and officer responsibilities, the opportunity should also be taken to extend the definition of 'Appointed Officer' for the purposes of delegated authority.

Implications of the Report

1. **Financial** – None.
2. **HR & Organisational Development** - None
3. **Community Planning – Jobs and Economy** – Speed and certainly in statutory decision making can assist in encouraging sustainable economic growth.
4. **Legal** – None
5. **Property/Assets** – None.
6. **Information Technology** – None.
7. **Equality & Human Rights** – The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report the primary legislation and secondary regulations have been subject to Equality Impact assessment. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – None.
9. **Procurement** – None.
10. **Risk** – None.
11. **Privacy Impact** – None.
12. **Cosla Policy Position** – N/A

List of Background Papers

- (a) Background Paper 1: Town and Country Planning (Scotland Act 1997.
Background Paper 2: Town and Country Planning (Schemes of
Delegation and Local Review Procedure) (Scotland) Regulations 2013.
Background Paper 3: Scottish Government Circular 5/2013 'Schemes
of Delegation and Local Reviews'.

The foregoing background papers will be retained within Development and Housing Services for inspection by the public for the prescribed period of four years from the date of the meeting. The contact officer within the service is David Bryce, Development Standards Manager, 0141 618 7892, david.bryce@renfrewshire.gov.uk

Author: Fraser Carlin, Head of Planning and Housing, 0141 618 7933.

APPENDIX 1

- “3. All planning and related decisions, including the signing and service of notices, within the scope of the Planning (Hazardous Substances) (Scotland) Act 1997.

Exceptions

The above delegations are subject to the exception of the following categories of application, which are for decision by elected members, as follows:

To be determined by the Council:

- (a) national development as specified in the National Planning Framework; and
- (b) major developments which are significantly contrary to the local development plan.

To be determined by a Board of the Council:

- (a) which the Planning authority decides to determine which would otherwise fall to be determined by a person appointed to do so under this scheme;
- (b) major developments as set out in the Schedule to the Town and Country Planning (Hierarchy of Developments) (Scotland) regulations 2009;
- (c) listed building consent for demolition of listed buildings and conservation area consent for demolition of a building in a conservation area;
- (d) applications involving residential development of 10 or more units on greenfield or undeveloped land; or on a site greater than 0.5 ha which is greenfield or undeveloped land;*
- (e) applications involving residential development of five or more units on sites within the greenbelt; or on a site greater than 0.3 ha which is within the green belt;*
- (f) applications which if approved are considered to be significantly contrary to the Local Development Plan and also those applications which, if approved, would be significantly contrary to the overall objectives, and would undermine the aims and strategic priorities, of the Local Development Plan.*
- (g) where, within 21 days of an application appearing on the Weekly List, a letter signed by three members is received, and where it sets out reasons why the matter should go before the Board, the Convenor in consultation with the Head of Planning and Housing shall consider such a request and shall be authorised to decide whether or not to agree to the request.”*



To: Council

On: 21st December 2017

Report by: Chief Executive

Heading: Review of community level governance arrangements

1. Summary

- 1.1 The aim of the review is to assess the Local Area Committees as a model of community level governance, and make recommendations for future models.
 - 1.2 The paper outlines the key findings of the review of the current Local Area Committee arrangements.
 - 1.3 A number of proposals for a future model of community level governance have been developed, which are detailed in the consultation paper attached at Appendix A.
 - 1.4 Following consultation, detailed proposals for a new model will be brought back to Council for approval. It should be noted that as formal committees of the Council, Council will be asked to make relevant amendments to the Standing Orders and Scheme of Delegation.
 - 1.5 Any new model developed would then be implemented over 2018/19 following relevant Council approvals. In the meantime, a number of process improvements will be implemented to improve the efficiency of the Local Area Committee grants process for 2018/19.
-

2. **Recommendations**

2.1 Elected members are asked to:

- Note the findings of the review into current Local Area Committee arrangements
- Note the review has been discussed by the Cross Party Sounding Board on 7th December 2017
- Approve consultation can commence as detailed at section 9 of the report and on the proposals outlined within Appendix A

3. **Background**

- 3.1 In 2016, Council agreed changes to the governance arrangements for the Community Planning Partnership, and as part of this work it was agreed that a review of the Local Area Committees (LACs) would be carried out.
- 3.2 The aim of the review is to assess the Local Area Committees as a model of community level governance, and make recommendations for a future model. The review included the form and function of Local Area Committees, along with the Local Area Committee grant funding.
- 3.3 In particular, the review has explored how Local Area Committees might best meet the requirements of the Community Empowerment (Scotland) Act, and provide an enhanced role for communities to engage with the wider Community Planning Partnership. In particular, it explores the relationship of Local Area Committees to existing and imminent statutory requirements such as Participation Requests, Community Asset Transfer and Participatory Budgeting.
- 3.4 It is also important that future arrangements support the delivery of the Empowering Communities approach which was approved at Leadership Board on 12th December. The proposals that have been developed are designed to support the development and delivery of this future model, particularly with regard to building community capacity and developing approaches such as participatory budgeting across the area.
- 3.5 It is further anticipated that the Scottish Government's review of Local Governance will also influence the development of community level governance in Renfrewshire, and consultation activity is anticipated around this review in early 2018. Officers will work together with

Scottish Government officers to deliver complementary consultation activity and reduce the consultation burden on community representatives and organisations.

3.6 Process and key activities:

- Benchmarking has been undertaken to assess the range of models across other Scottish local authorities.
- Engagement activities have been undertaken throughout the review, including: presentations at Local Area Committee meetings, a survey, a series of focus groups and individual interviews with organisations. This has included a range of people regularly involved in Local Area Committee meetings, alongside organisations who have been both successful and unsuccessful in gaining grant funding from Local Area Committees, and a number of organisations from the wider third sector who are not currently engaged with LACs.
- A Community Council Local Area Committee sub-group was also set up.
- Analysis of grant funding applications and awards across all five Local Area Committees for the last three years

4. **Function and remit**

- 4.1 Local Area Committees have the following key aims; to promote active citizenship, to advance community wellbeing by shaping services around residents' needs, to provide local scrutiny of public services and to allocate delegated funds to fund local projects.
- 4.2 Engagement activities indicated that many people feel the grant funding function of the Local Area Committees is often seen as the primary function of Local Area Committees, with limited evidence that the other aims such as promoting active citizenship and public scrutiny are totally fulfilled.
- 4.3 There were a significant number of responses indicating that LACs should have a wider function, and a clear indication that LACs could have significant wider value for communities as well as public services.
- 4.4 Proposals within the consultation paper detail a renewed set of aims, and a specific proposal for a primary aim of the new arrangements to be identifying, setting and sharing local priorities. The consultation would also seek views on 'rebranding' Local Area Committees, moving the focus from a committee function to a partnership function.

5. Boundaries

- 5.1 There is a current requirement to review Local Area Committee boundaries, following the establishment of an additional ward prior to the 2017 local elections. Since this time a temporary 'fix' has been in place to allow LACs to continue to function, but they now have an uneven spread of population and elected member representation and need to be revised.
- 5.2 There has been some discussion about whether LAC boundaries are representative of physical communities and settlements, and in a number of cases the ward boundaries run counter to natural communities. The two most common messages emerging from the engagement exercise were about (a) recognizing the distinction between rural and urban communities, and (b) that population distribution was the fairest way to calculate different boundaries.
- 5.3 Proposals within the consultation paper detail a proposal to move from using Ward boundaries to Community Council boundaries, and will seek views on a proposed model which moves to 7 areas instead of 5.

6. Membership

- 6.1 Local Area Committees are chaired by an elected member within the area, and supported by a lead officer from the Council at Head of Service level. While formal membership of Local Area Committees is reserved to the elected members within the relevant area, Local Area Committees are comprised of a number of constituted community and voluntary sector organisations, and are also attended by other community planning partners such as the Police, and Health and Social Care Partnership. They are open to all constituted community organisations within the relevant local area, and are held as public meetings.
- 6.2 Engagement activities indicated that some groups feel disempowered by the lack of voting rights, while others feel it is proper for decisions to be made by elected members with a clear democratic mandate. It is important to note the limited voting rights of other community members is a direct result of having LACs established as formal Council committees, in order for decision-making to be fully devolved to the local level.
- 6.3 Concerns were also raised that LACs are not very representative of the communities they serve, particularly with regard to young people.

Feedback was also received that LACs should be representative of a range of different community led groups across each local area.

6.4 Involvement from partner organisations at Local Area Committees is a valued part of the current arrangements. However, feedback indicated that the relationship between a range of partner organisations and community groups could be strengthened through the LAC arrangements, with a number of suggestions that LACs should seek to achieve a better two-way information flow between the community and public services.

6.5 Proposals within the consultation paper include widening voting rights within the new partnership arrangements, and a greater role for relevant partner organisations. The consultation would seek views on proposals to move from formal committees of the Council to part of the Community Planning Partnership structures.

7. **Meetings**

7.1 Business at Local Area Committees is comprised of predominantly officer reports and presentations from the Council and its partners around local performance, service changes and consultation. There is an open session on every agenda where communities can raise local issues. The first two meetings in the cycle (typically May and August) are usually predominantly focused on considering grant applications and awarding LAC funding.

7.2 Feedback from the consultation indicated that while many value the professionalism and formality of Local Area Committee meetings, some consider them formal and intimidating for people who are new or unfamiliar with the Council committee system.

7.3 Proposals within the consultation paper focus on how meetings can become more accessible and participative, and the consultation would seek views on how this could be best achieved.

8. **Grants**

8.1 Local Area Committees have a delegated budget, totalling £675,510 across the five areas. Any constituted community organisation in the relevant area can apply for a grant from the LAC for local projects and activities. Organisations serving citizens across several LAC areas can

apply for funding from multiple LACs where appropriate. LAC funding is comprised of funding from relevant Common Good funds, Youth Challenge funding and General fund, and applications are considered under the appropriate fund.

- 8.2 It is noted that the LAC funding has become increasingly oversubscribed. Funding mechanisms that were originally intended to provide an easy application process, and a method of local and transparent decision making are now no longer able to provide enough structure for fair assessment of grant applications.
- 8.3 There are an increased number of grants being sought across multiple LAC areas, with a minority of grants in the 17/18 cycle being sought for local activities solely within that Local Area Committee area. This was a particularly controversial point during engagement activities, and the process for assessing and supporting these applications requires review.
- 8.4 In the 2017/18 round of LACs to date, there has been significant discussion about the role of feedback and monitoring for grant applications. LAC members are keen to see how grant funding has been spent in their communities, and many community organisations are keen for an opportunity to share what their organization has delivered.
- 8.5 Participatory budgeting is recognised internationally as a way for local people to have a direct say in how, and where, public funds can be used to address local needs. By 2021, at least 1% of local government budgets in Scotland will be subject to participatory budgeting, and the methodology is increasingly being used across Scotland as part of wider approaches to Community Empowerment.
- 8.6 It is recognised that a large number of community organisations would be affected by changes to Local Area Committee grant funding, and there will be careful consideration of any potential impacts as any new model of grant funding is developed throughout 2018/19. In the meantime, a number of process improvements will be implemented to improve the efficiency of the Local Area Committee grants process for 2018/19.
- 8.7 Proposals within the consultation paper focus on refocusing locally distributed grants on local projects (and aligned to local priorities), and providing an alternative process administered by officers for Renfrewshire wide proposals (which is aligned to Community Planning priorities). The consultation would also seek views on a proposal to

carry out a participatory budgeting exercise with money allocated to the Youth Challenge fund.

9. **Consultation arrangements**

9.1 It is proposed that the consultation would last for 12 weeks, starting from late January 2017.

9.2 It should focus on engaging the wider community in addition to those who are engaged in the current local area committee system. The consultation would involve a range of methodologies to seek views from a range of stakeholders.

9.3 Work is also underway with the Consultation Institute to make sure the consultation is designed and implemented following best-practice standards.

Implications of the Report

1. **Financial** – It is possible that the administration of new arrangements could have financial implications for the Council. These will be developed and presented as part of any changed proposals presented to future Council meeting.

2. **HR & Organisational Development** – There are no HR implications arising from this report. There may be organisational development implications for a future model, as it is possible that there will be training requirements for officers as part of the transition to any new model.

3. **Community Planning / Council Plan –**

Community Plan - Our Renfrewshire is well – This priority of the Community Plan explicitly refers to the review of community level governance, and in particular that communities are best place to support themselves and articulate their own needs.

Council Plan - Building strong, safe and resilient communities – A key priority within the Council plan is to ‘Strengthen existing community networks and empowering local people to become more involved in their area and the services delivered there.’

4. **Legal** – Any future change to Local Area Committee arrangements would be likely to have governance implications for the Council. These will be developed and presented as part of any changed proposals presented to future Council meeting.
5. **Property/Assets** – Not applicable
6. **Information Technology** – Not applicable
7. **Equality & Human Rights** - The proposals discussed within the paper should improve participation and representation of communities and enable groups to have more voice and influence in the shaping and scrutiny of public services.
8. **Health & Safety** – Any health and safety implications would be considered in the delivery of the consultation, and moving forward in any new arrangements developed.
9. **Procurement** – Not applicable.
10. **Risk** - Not applicable
11. **Privacy Impact** – Not applicable
12. **Cosla Policy Position** – Not applicable

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Review of Community Level Governance

Consultation Paper

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Introduction

In 2016, Renfrewshire Council agreed changes to the governance arrangements for the Community Planning Partnership, and as part of this work it was agreed that a review of community level governance would be carried out.

When we talk about Community Level Governance, we mean the formal structures by which local communities engage with the Council and other public services. Currently in Renfrewshire, this is done through a structure of committees called 'Local Area Committees' (or 'LACs') which were established as formal committees of the Council in 2007.

We have reviewed our current system of Local Area Committees to understand how well they work, as well as looking at other models across Scotland. In particular, the review has explored how Local Area Committees might best meet the requirements of the Community Empowerment (Scotland) Act, and provide an enhanced role for communities to engage with the wider Community Planning Partnership.

Following what we have learnt from the review, we have developed a series of proposals for a future model of community level governance. This consultation sets out the proposals we have developed, and seeks views on whether (a) people agree with the direction of these proposals and (b) how we should put these proposals into action.

Why we are consulting?

The proposals outlined in the consultation paper have been developed following engagement with a range of stakeholders, but we recognize that in order to develop a model that works, we need to talk to a wider range of people.

Fundamentally, community level governance is about what works for communities. For this reason, it is essential that we work together with communities to design and deliver a model that meets their needs. Our aim is to have a model of community governance that reflects the views and requirements of communities, and in turn, that this encourages people to be more involved.

The consultation will inform the paper which will go to Council and Community Planning Partnership with details of a new model to be agreed. If this model is approved, then it would be implemented in 2018/19 and this would be done in partnership with a range of community led organisations.

As a Council, our Local Area Committee system is a formal committee of the Council. As structures are currently part of our Standing Orders, changes to this system need to be approved by Council. We have also proposed moving our community level governance arrangements into the Community Planning Partnership structure, so if these proposals are taken forward they will also need to be agreed by the Community Planning Partnership.

How we will consult?

We have already done some engagement with people as part of our review of current arrangements. We will build on this engagement in our full consultation.

As is standard, a consultation paper will be produced with information about the proposals, and consultation questions as detailed in this document. It will be possible to respond to this online, via email or using a paper copy.

In addition, a series of consultation events will be held during the consultation period, which will be carried out in community locations across Renfrewshire.

Key stakeholders include elected members, community councils, current Local Area Committee attendees, community organisations with a local interest, community anchor organisations, and organisations supported or funded through the existing Local Area Committee structures.

In addition to those currently engaged in existing arrangements, the consultation will seek views of those who are not currently engaged, such as wider community members and organisations.

The consultation will run for 12 weeks from 22nd January to 15th April 2018, to allow sufficient opportunity to carry out a range of consultation events and for people to respond to consultation questions.

The proposals

There are nine key proposals that are being consulted on, across five key areas; function, membership, boundaries, meetings and grants.

Function

Currently, the aims of Local Area Committees are to promote active citizenship, to advance community wellbeing by shaping services around residents' needs, to provide local scrutiny of public services and to allocate delegated funds to fund local projects.

Proposal one: Refresh the aims

Initial engagement indicated that current arrangements do not fully meet their current aims, and that many people feel the aims of community level governance are broader than their current function. While grant giving is an important part of the arrangements, we recognise there is significant potential value beyond grant-giving, and that current arrangements might not be fulfilling that potential.

Proposed key aims for new arrangements include:

- Make connections and networks between community groups and the wider community

Community level governance offers an opportunity to bring together elected members, public sector organisations, community councils and other community led organisations across an area. This has a clear purpose in terms of achieving social connections, networks and partnerships across a local area – and this should be a more explicit aim of the new arrangements.

- Identify, set and share local community priorities

Groups should then work with each other, their memberships and wider community to identify and share the priorities for the local area. This should be a focused set of priorities, which can be ambitious for the area but still achievable – rather than a 'wish list' for communities. In response, these priorities should be recognised by the Council and its partners, and should have a material impact on how public services are delivered.

- Listen to, consult and represent local communities

Community level governance should engage local stakeholders and communities around their views, needs and aspirations for a local community – which should be part of a two-way information flow between them and local public services. Public services should work with groups for formal consultation activity, but more broadly should seek local insight through these structures. Likewise, community issues could be raised through this structure.

- Distribute grants to support local activities

Grant assistance should remain an important function, to allow locally controlled allocation of resources to community groups. Further proposals relating to grant funding can be found at section nine.

1a) Do you agree with the proposed aims of new arrangements? (Y/N)

1b) Do you have any additional comments on the proposed aims?

Proposal two: Move from ‘committees’ to partnership

It is proposed that ‘Local Area Committees’ are not continued in their current form and are replaced with ‘Local Partnerships’ in order to reflect changes to function and remit. This emphasizes the core purpose of the groups as working together and partnership, rather than a committee style function. New partnerships would work together to identify an appropriate name that reflects the geographical area covered by their partnership.

Community level governance should be owned by the community, rather than a committee function of the local authority. For this reason, it is proposed that the new partnerships become part of the Community Planning Partnership structure, and no longer function as formal committees of the Council.

2a) Do you agree with the proposed approach? (Y/N)

2b) Do you have any additional comments on the proposals?

Membership

Currently, Local Area Committees are chaired by an elected member within the area, and supported by a lead officer from the Council at Head of Service level. While formal membership of Local Area Committees is reserved to the elected members within the relevant area, Local Area Committees are comprised of a number of constituted community and voluntary sector organisations, and are also attended by other community planning partners such as the Police, and Health and Social Care Partnership. They are open to all constituted community organisations within the relevant local area, and are held as public meetings.

Proposal three: Voting rights extended

Engagement indicated that some groups feel disempowered by the lack of voting rights, while others feel it is proper for decisions to be made by elected members with a clear democratic mandate.

It is proposed that membership of new arrangements is widened to include equal numbers of elected members and community representatives, which would include representatives from relevant Community Councils operating in the area.

It is further proposed that new arrangements should seek to achieve decision making by consensus, but in areas where a decision is required, voting should be extended across the formal membership of the group. It should be noted that where this decision relates to a function of the Council (i.e. the distribution of grant funding) this would be a recommendation which would require formal ‘approval’ from either a Council board or an officer with sufficient authority.

3a) Do you agree that voting rights should be extended? (Y/N)

3b) Do you have any additional comments on the proposals to extend voting rights?

Proposal four: Other public services play a greater role

Where public services regularly attend Local Area Committees, their role is valued. However the presence and input of public sector partners is varied, and there are opportunities to maximize the role of the Council and its partners and use community level governance arrangements as an opportunity across the partnership to engage, consult and for two way information sharing meaningfully with communities.

It is proposed that key partners have officer representatives in the new arrangements, and provide an active and open channel of communication between communities and their wider organisation. Based on our engagement, it is proposed that these key organisations are the Council, Police Scotland, Renfrewshire Health and Social Care Partnership and the third sector interface, Engage Renfrewshire. Other Community Planning Partners could be called in to participate in meetings where this was relevant.

4a) Do you agree that partners should play a greater role? (Y/N)

4b) Do you have any additional comments on the proposals on public service involvement? (Y/N)

Proposal five: Wider engagement with the community

If community level governance has an increased role in representing the voices and ambitions of communities, then it is increasingly important that governance arrangements are representative of their communities, and able to hear a range of voices from within their networks and the wider community.

It is proposed that formal members of the new arrangements will have a responsibility to engage their wider membership and/or network to inform their participation on the group and also to disseminate information on the groups behalf. Wider event should be considered in more of an 'event' style which encourage wider attendance and facilitate local connections and networks to be established. This could be achieved through wider publicity of meetings and activities, and include presence on social media and digital channels.

5a) Do you agree that partnerships should engage more with wider community? (Y/N)

5b) How do you think wider engagement with communities would be best achieved?

5c) Do you have any additional comments on the proposals to widen engagement with the community?

Boundaries

There is a current requirement to review Local Area Committee boundaries, following the establishment of an additional ward prior to the 2017 local elections. Since this time a temporary 'fix' has been in place to allow LACs to continue to function, but they now have an uneven spread of population and elected member representation and need to be revised.

Proposal six: Move from 5 area based on ward boundaries to 7 based on community council boundaries

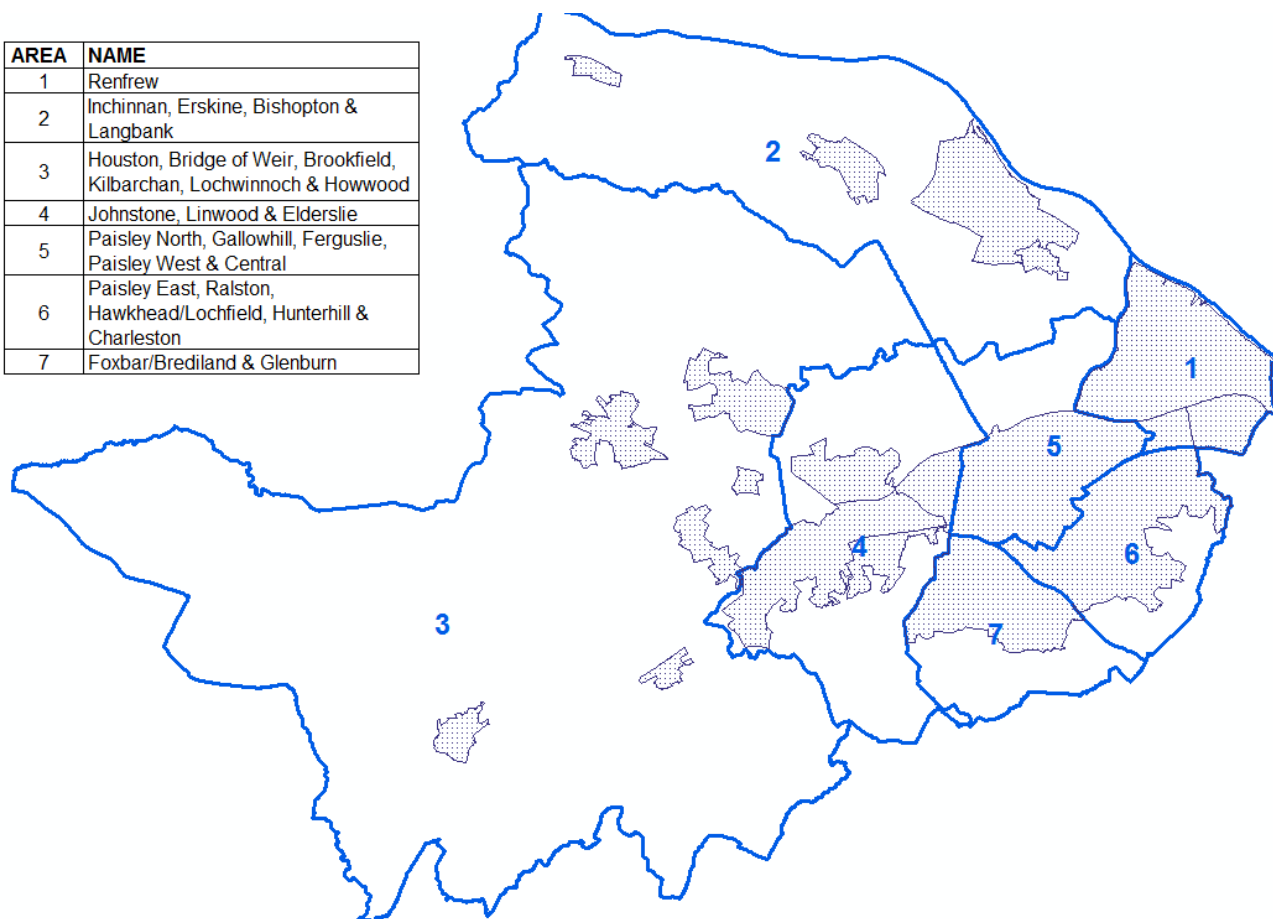
We have looked at redefining community level governance boundaries using Community Council boundaries, as opposed to Ward boundaries as these are more representative of physical communities and settlements, and in many cases the ward boundaries run counter to natural communities.

Feedback from engagement indicated that equal populations between areas were the fairest, and whatever boundaries are in place should recognise the distinction between urban and rural issues.

The proposals that have been developed are also based on similarities within areas, rather than differences. For example, areas might have shared physical features, or similar types of regeneration activity planned.

The proposals also expands the number of areas to 7 from 5, recognizing the current Local Area Committee areas are very large and wide ranging in some places. It is recognised that this may represent an increase in resourcing for the areas.

AREA	NAME
1	Renfrew
2	Inchinnan, Erskine, Bishopton & Langbank
3	Houston, Bridge of Weir, Brookfield, Kilbarchan, Lochwinnoch & Howwood
4	Johnstone, Linwood & Elderslie
5	Paisley North, Gallowhill, Ferguslie, Paisley West & Central
6	Paisley East, Ralston, Hawkhead/Lochfield, Hunterhill & Charleston
7	Foxbar/Brediland & Glenburn



A move away from ward boundaries means that elected member representation in the proposed arrangements would be more complex, with some elected members' wards spanning two areas.

We appreciate that boundaries can often be controversial, and welcome comments on the proposals.

6a) Do you agree with the proposed move from ward boundaries to Community Council boundaries? (Y/N)

6b) Do you agree with the proposed groupings? (Y/N)

6c) What do you think the advantages of the proposed boundaries are?

6d) What do you think the disadvantages of the proposed boundaries are?

Meetings

Business at Local Area Committees is comprised of predominantly officer reports and presentations from the Council and its partners around local performance, service changes and consultation. There is an open session on every agenda where communities can raise local issues. The first two meetings in the cycle (typically May and August) are usually predominantly focused on considering grant applications and awarding LAC funding.

Proposal seven: Meeting should become more accessible and participative

Feedback from early engagement indicated that while many value the professionalism and formality of Local Area Committee meetings, some consider them formal and intimidating for people who are new or unfamiliar with the Council committee system.

Moving forward, it is proposed that meeting arrangements are adjusted to become more accessible and participative. There are a number of practical measures that have been suggested through early engagement, and as such it is proposed that the following are reviewed:

- balance of items on the agenda
- quantity and quality of formal reports and presentations

- venue choices and room layout
- length of meetings
- the accessibility of meetings for disabled people

7a) Do you agree with the proposals about meetings? (Y/N)

7b) What else could be done to support more accessible and participative meetings?

Grants

Local Area Committees have a delegated budget, totalling £675,510 across the five areas. Any constituted community organisation in the relevant area can apply for a grant from the LAC for local projects and activities. Organisations serving citizens across several LAC areas can apply for funding from multiple LACs where appropriate. LAC funding is comprised of funding from relevant Common Good funds, Youth Challenge funding and General fund, and applications are considered under the appropriate fund.

Proposal eight: Local grants for local projects

It is proposed that grant funding is offered through Local Area Committees, aligned to local priorities and awarded for activities which are unique to that local area. These grants should remain easy for small local community organisations to apply for.

Currently, Local Area Committees allocate a significant level of their funding to applications that cover a number of different Local Area Committee areas. Early engagement indicated that this process can be long-winded and unpredictable for organisations applying, and some LAC members feel that applications are not always relevant to their local area. It is proposed that multi-area applications are moved to a central grants process administered by Council officers.

Engagement also indicated that it was felt that more structure could be applied to the grants process to improve both the process, and the funding outcomes. It is proposed that a series of improvements are made to the grant application process to make sure that decisions are well informed and the process runs smoothly and efficiently.

8a) Do you agree that funding should be focused on local projects, in line with the community priorities that have been identified and agreed? (Y/N)

8b) Do you agree that 'multi-LAC' applications should be administered through a central grant fund? (Y/N)

8c) Do you have any additional comments relating to the grants proposals?

Proposal nine: Participatory budgeting

Participatory budgeting is recognised internationally as a way for local people to have a direct say in how, and where, public funds can be used to address local needs. By 2021, at least 1% of local government budgets in Scotland will be subject to participatory budgeting, and the methodology is increasingly being used across Scotland as part of wider approaches to Community Empowerment.

It is proposed that local areas have the choice to deliver their grant funding by participatory budgeting approach, and that this process and approach would be supported by the Council.

It is further proposed that the Youth Challenge Fund should be distributed via a Participatory Budgeting exercise, where young people would decide on which projects should be funded for young people. This would allow young people the opportunity to influence and decide youth activities across the area but would also bring young people closer to civic participation and decision making.

9a) Do you agree that new arrangements should give choice for participatory budgeting? (Y/N)

9b) Do you agree that young people should decide on the allocation of the Youth Challenge Fund through a participatory budgeting exercise? (Y/N)

9c) Do you have any additional comments on the use of participatory budgeting as part of community level governance?

Next steps

The consultation period is due to run from 22nd January to 15th April 2018. Following this, responses will be collated and analysed, and a model for Community Level Governance arrangements presented to Council and Community Planning Executive Group for approval in May 2018.



To: Council

On: 21st December 2017

Report by: Chief Executive

Heading: Support for community organisations

1. Summary

- 1.1 This paper outlines a proposal to review Renfrewshire Council's approach to supporting community organisations, to improve the consistency of the support the Council does provide and better align this to the Council's strategic objectives.
- 1.2 There are a number of emerging statutory requirements from the Community Empowerment (Scotland) Act 2015, along with a number of new developments within the Council which require a consolidated approach. These include the review of community level governance arrangements and the empowering communities approach.
- 1.3 It is proposed that a review of support to community organisations is carried out to provide:
 - (a) an assessment of the extent and consistency of support to community organisations offered across the Council
 - (b) the views and experiences of community organisations seeking support from the Council
- 1.4 Following this review, it is proposed that a framework is developed which clearly outlines the principles for the Council's engagement and

support, and create a process which is more efficient for the Council, and transparent for community organisations.

2. **Recommendations**

2.1 Members are asked to note:

- a) that a review will be undertaken of Council support to community groups, including engagement with community groups on their views and experiences, and
 - b) that the outcome of this review and associated recommendations will be submitted to a future Council meeting for consideration.
-

3. **Background**

3.1 There are a wide range of community groups and organisations across Renfrewshire at different levels and at different stages of achieving their objectives. These include Community Development Trusts and Community Anchor Organisations with a desire to effect change and contribute to the regeneration of a place, alongside organisations working with specific groups of people or on specific areas of interest or disadvantage. It is recognised that organisations often have different and distinct needs, and those needs are reflected in the range of supports that are requested of the Council.

3.2 There are a number of ways which the Council supports different Community based organisations and groups, including but not limited to:

- **Advice and guidance** – Teams across the Council services offer ad hoc advice and guidance to a range of community organisations, and often on an informal and service specific basis.
- **Support to access funding** – There are a number of teams across the Council, and funded by the Council, which offer support to community organisations to access external funding sources. In addition, there are occasions where the Council has acted as a ‘custodian’ for larger funding amounts so they can be drawn down by community organisations.
- **Asset transfer** – There is currently a Community Asset Transfer process set up to enable community organisations to take on community assets (land or buildings) to deliver community benefit.

- **Direct funding support** – the Council directly funds a wide range of community organisations through grants and other funding arrangements. This is mostly delivered through well established grant funding mechanisms, but there are examples of grants being made available on an ad-hoc basis.
 - **Partnership led activity** – there may be further examples where the Council enters into a partnership with community organisations in order to deliver projects or services for community benefit.
- 3.2 There are also a number of existing processes within the Council which the review must be cognisant of. These include the Community Asset Transfer process, Participation Request process, Community Level Governance arrangements which are currently being reviewed and a variety of community grants offered across the Council.
- 3.3 It is recognized that the size and complexity of local authorities can make engagement with the Council difficult to navigate for community organisations. In addition, individual Council services often have their own approaches and processes reflecting their service priorities.

4 Strategic Context

- 4.1 The Community Empowerment (Scotland) Act 2015 is intended to empower community bodies through the ownership or control of land or buildings and by strengthening the voice of communities in the planning and delivery of public services.
- 4.2 There are eleven parts to the Act in total. These cover National Outcomes, Community Planning, Participation Requests, Community Rights To Buy, Asset Transfer Requests, Delegation of Forestry Commissioners' Functions, Football Clubs, Common Good Property, Allotments, Participation In Public Decision-Making and Non-Domestic Rates.
- 4.3 Different parts of the Community Empowerment (Scotland) Act 2015 require different guidance and, in some cases, secondary legislation. This means that some parts of the Act have come into force while others have still to be enacted.
- 4.4 Key parts of the Community Empowerment (Scotland) Act 2015 that strengthen community empowerment in terms of ownership of assets and involvement in public services concern Participation Requests and Asset Transfer Requests.

- **Participation Requests** put in place a process for community bodies to put forward ideas about how their involvement in the planning and delivery of public services could result in improved outcomes for communities. Once a participation request is submitted to a public service by a community body, there is a statutory timescale for responding to this request. The legislation states that the public service must respond positively and accept the participation request unless there is a reasonable case for not doing so. If the participation request is refused, the reasons for this have to be stated. Community bodies would also have recourse to appeal to Ministers on refusal of a participation request.
- **Asset Transfer requests** provide a process to enable community bodies to purchase, lease, manage or use land or buildings belonging to public services or the Scottish Government. All public services are required to maintain a public register of their land and assets. With very few exceptions, all public service assets are eligible for community asset transfer. Community bodies can request the transfer of land or buildings owned by public services, whether these are currently in use or not. The purpose of use must be stated and must be to the benefit of the wider community. Asset transfers are not presumed to be free of charge. Part of the process involves the community body stating the sum that it would be willing to offer the public service for transfer of the asset. The presumption of the legislation is that asset transfer requests will be agreed by the public service, unless there are reasonable grounds for refusal. As with participation requests, the reasons for any refusal must be explained and there is an appeals process.

4.5 In addition to specific statutory requirements of the Community Empowerment (Scotland) Act, there are a number of Council developments underway which are designed to support the wider aims of community empowerment.

4.6 Community level governance arrangements are currently being reviewed to assess how they can facilitate engagement from local communities. In particular, the review has explored how Local Area Committees can meet the requirements of the Community Empowerment (Scotland) Act, and provide an enhanced role for communities to engage with the wider Community Planning Partnership. In particular, it explores the relationship of Local Area Committees to existing and imminent statutory requirements such as Participation Requests, Community Asset Transfer and Participatory Budgeting. Part of this review will also assess the grant support which is delivered through the current Local Area Committee system.

- 4.7 In December, Leadership Board approved proposals for an 'Empowering Communities' approach that will seek to transform the relationship of the Council with the communities it serves, including the development of a new Empowering Communities frontline service model. Over the next 2 years the Empowering Communities approach will start to:
- Strengthen the Council's ability to act as an effective partner for communities
 - Build community capacity in all of Renfrewshire's communities
 - Increase community ownership of service delivery and assets
 - Improve Council support for communities: providing resources & specialist skills; grant funding; decentralised budgets and participatory budgeting
 - Share power more equally between communities, individuals and professionals
 - Invest in and develop community potential, community assets and social networks
- 4.8 It should be noted that a new Council Plan and Community Plan have been agreed in 2017, setting out the strategic priorities for the Council. This offers an opportunity to ensure council support is now aligned to its strategic priorities
- 5. Next steps**
- 5.1 The current landscape of support to community groups is complex, both in the range of current practices and new and emerging developments and processes.
- 5.2 It is proposed that a review of community group support is carried out to provide:
- (a) an assessment of the extent and consistency of support to community groups offered across the Council
 - (b) the views and experiences of community organisations seeking support from the Council
- 5.3 This would involve working across a range of Council services to identify examples of community support, and identify good practice and lessons learnt. In addition, engagement would be carried out with a range of community led organisations to understand community perceptions and experiences of how the Council supports them.

- 5.4 It is also proposed that key processes referred to in this paper, such as Asset Transfer and Participation Requests, are also assessed in order to establish how the Council might streamline the processes that it already has in place.
- 5.5 From this review, it is proposed that a framework is developed which clearly outlines the principles for the Council's engagement and support, and creating a process which is more efficient for the Council, and transparent for community groups.

Implications of the Report

1. **Financial** – There are no financial implications of this report.
2. **HR & Organisational Development** – Not applicable
3. **Community/Council Planning** – The review will seek to align support to community groups more closely to the priorities outlined within both the Council Plan and Community Plan.
4. **Legal** – A renewed process for support Community Groups will support the Council's adherence to processes and principles within the Community Empowerment (Scotland) Act.
5. **Property/Assets** - Not applicable
6. **Information Technology** - Not applicable
7. **Equality & Human Rights** – The review will take into consideration the views of equalities led community groups across Renfrewshire. A full Equality Impact Assessment will be carried out on any new arrangements developed as a result of the review.
8. **Health & Safety** - Not applicable
9. **Procurement** – Not applicable
10. **Risk** - Not applicable
11. **Privacy Impact** - Not applicable
12. **Cosla Policy Position** – Not applicable

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To: The Council

On: 21 December 2017

Report by: Director of Finance and Resources

Subject: The EU General Data Protection Regulation

1. Summary

- 1.1 The purpose of this report is to advise the Council of the new EU General Data Protection Regulation ("GDPR"), which will come into force on 25 May 2018, notwithstanding Brexit.
- 1.2 GDPR is the most significant data protection development in twenty years. This will mean important changes to existing data protection law and the way in which the Council addresses data protection compliance. As well as introducing new rights for individuals and enhancing existing rights, the monetary penalties for a data protection breach will increase from a maximum of £500,000 to 20 million Euro. The reputational damage for an organisation which fails to comply with GDPR will also be considerable.
- 1.3 Article 37 of the GDPR obliges the Council to designate a Data Protection Officer (DPO) on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices. The key tasks of the DPO, which are prescribed by Article 39, are to inform and advise the Council and its employees about their obligations to comply with the GDPR and other data protection laws; to monitor compliance with the GDPR and other data protection laws, including managing internal data protection activities, advise on data protection impact assessments; train staff and conduct internal audits; to be the first point of contact for supervisory authorities and for individuals

whose data is processed (employees, customers etc) and to have due regard to the risk associated with the Council's processing operations.

The Managing Solicitor (Information Governance) has been appointed to this statutory role with effect from 15 November 2017 and section 4 of the scheme will be amended to reflect this. The title of the post has also been amended to Managing Solicitor (Data Protection Officer).

In addition to reflect the autonomy of this role, a new delegation has been added to section 5 of the scheme as follows:

“The Managing Solicitor (DPO) is authorised to discharge the role of statutory DPO, which includes autonomy in advising on all issues which involve the protection of personal data and monitoring compliance.”

2. **Recommendations**

It is recommended that:-

- 2.1 The terms of the report, which detail the implications of GDPR for the Council, are noted;
- 2.2 The Council approve the implementation of the GDPR Action Plan summarised in paragraph 3.5;
- 2.3 It be noted that the Managing Solicitor (Data Protection Officer) has been appointed as Data Protection Officer;
- 2.4 Sections 4 and 5 of the scheme of delegated functions be amended to reflect this statutory appointment.

3. **Background**

- 3.1 The Data Protection Act 1998 came into force on 1 March 2000. This regulates how data controllers, such as the Council, process people's personal information. This is enforced by the Information Commissioner's Office (ICO).
- 3.2 On 25 May 2018, the law on data protection will change, as a result of GDPR. As the UK will still be a member of the EU on 25 May, GDPR will apply in full until the UK leaves. The Government has confirmed its

intention to bring GDPR into UK law post-Brexit through the Data Protection Bill, which is currently being debated in Parliament.

3.3 The Council needs to process personal information to operate. Failure to do this properly post May 2018, will not only expose the Council to higher monetary penalties and greater reputational damage, but will also reduce public confidence.

3.4 Although many of the key concepts and principles of GDPR are the same as the Data Protection Act 1998, some things are entirely new and some existing rights are enhanced. This means that the Council will need to do some things for the first time and some things differently.

Key GDPR changes will include:-

1. A duty to designate a statutory role of Data Protection Officer (DPO) with sufficient expertise, resources and the autonomy to perform the duties and tasks of the post in an independent manner;
2. An increase in monetary penalties from a maximum of £500,000 to 20 million Euro;
3. Mandatory, rather than voluntary self notification of any serious information security breaches to the ICO within 72 hours;
4. Increased data subject rights, including the need for more detailed privacy notices, changes to the right of erasure and the introduction of an entirely new right to data portability;
5. Reduction in the timescale for compliance with Subject Access Requests (SARs) from 40 calendar days to one calendar month;
6. Abolition of the £10 fee for SARs;
7. Stricter rules on consent, and
8. Privacy Impact Assessments (PIAs) become mandatory.

3.5 Although the Council already has a robust information governance framework, GDPR compliance will have resource implications, both in terms of preparatory work needed, in advance of May 2018 and ongoing compliance. It is of note that although the Information Governance Team within Legal and Democratic Services have always provided data protection advice and overseen compliance, the new statutory role of DPO extends beyond this with a specific monitoring role, as outlined at paragraph 1.3. The GDPR provides that the DPO should have a sufficient degree of autonomy and also explicitly

provides that an organisation must support its DPO by “providing resources necessary to carry out tasks and to access personal data and processing operations and to maintain his or her expert knowledge”.

The Team are leading the Council preparations, assisted by Service representatives on the Data Protection Working Group and the Information Management and Governance Group. ICT are also inputting to ensure that the Council has an up to date and fully functional Information Asset Register and that the Council's systems are equipped to deal with new data subject rights, such as the right to data portability and right to erasure. These preparations form part of the Council's GDPR Action Plan, which is based on the ICO's guidance 'Preparing for the Data Protection Regulation – 12 steps to take now'.

Those 12 steps include measures such as training and awareness raising, auditing and documenting information held by the Council, identifying the legal basis for processing information, thinking about how best to communicate privacy information to the public, considering how consent is sought, obtained and recorded and whether this will still be adequate under GDPR, ensuring that data breach management procedures are adequate, considering the impact of GDPR on both existing and new Council contracts, implementing relevant changes to processes and systems to comply with new rights of individuals and designation of a statutory Data Protection Officer (DPO).

All data protection and associated information governance procedures and guidance need to be revisited in early 2018. A revised Data Protection Policy will be submitted to Finance and Resources and Customer Services Policy Board in spring 2018 to reflect practical changes, which will take effect on 25 May, such as the abolition of the SAR fee and reduction in timescales.

GDPR training and awareness raising is being incorporated into the existing Information Governance Learning & Development Strategy and a communications plan is being developed to ensure that staff are aware of any changes which affect the way in which they work.

As well as processing personal information on the Council's behalf, Councillors are also individual data controllers in their own right, in relation to information they process for constituents. A training session focusing on how GDPR will affect Elected Members has therefore been scheduled for 8 March 2018.

The Action Plan will be updated, as necessary, as further guidance becomes available from the ICO and the EU Article 29 Working Party.

- 3.6 Although the preparations for GDPR are resource intensive and the implications of this are highly significant for the Council, some of what is new is already being done by the Council as 'best practice', for example, conducting PIAs. Similarly, the Council already has procedures in place to manage any data breaches and those information security incident procedures will be of assistance in complying with the new obligation to self notify breaches to the ICO without undue delay and, where feasible, not later than 72 hours after becoming aware of it.
-

Implications of the Report

1. **Financial** - The additional responsibilities on the Council under GDPR will result in a range of increased demands and risks to manage which will require additional support arrangements to operate across the Council. The financial implications of this will be incorporated into the budget planning arrangements for 2018/19.
2. **HR & Organisational Development** – HR & OD will assist with training in and awareness of GDPR by facilitating the launch of a GDPR specific iLearn module, prepared by the Information Governance Team, which will form the 2018 annual data protection refresher training.
3. **Community/Council Planning –**
 - *Our Renfrewshire is thriving – enter details/ delete if not appropriate*
 - *Our Renfrewshire is well - enter details/ delete if not appropriate*
 - *Our Renfrewshire is fair - enter details/ delete if not appropriate*
 - *Our Renfrewshire is safe - enter details/ delete if not appropriate*
 - *Reshaping our place, our economy and our future - enter details/delete if not appropriate*
 - *Building strong, safe and resilient communities - enter details/delete if not appropriate*
 - *Tackling inequality, ensuring opportunities for all - enter details/delete if not appropriate*
 - *Creating a sustainable Renfrewshire for all to enjoy - enter details/delete if not appropriate*
 - *Working together to improve outcomes - enter details/delete if not appropriate*
4. **Legal** - GDPR is the most significant change to data protection legislation in twenty years and preparations are underway to ensure that the Council is compliant by 25 May 2018 when this comes into force. This has significant resource implications for the Information Governance Team, in particular.

5. **Property/Assets** - None
6. **Information Technology** – ICT are essential to the successful implementation of GDPR. As part of their information management function, they are leading on the updates to the Council's Information Asset Register and assessing the impact of new and enhanced data subject rights on ICT systems.
7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only and GDPR will increase information rights. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** - None
9. **Procurement** – Provision now needs to be made for GDPR in Council contracts, as appropriate.
10. **Risk**- GDPR compliance is addressed on the Council's corporate risk register to ensure that key milestones are met and the Council is fully compliant by May 2018.
11. **Privacy Impact** – Privacy Impact Assessments (PIAs) are currently conducted, as best practice, by the Council in relation to projects or initiatives which involve processing personal information in new ways and have a potential privacy impact. PIAs will be mandatory when GDPR comes into force on 25 May 2018.
12. **Cosla Policy Position** – Not applicable

List of Background Papers

- (a) Background Papers - None
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Author **Allison Black, Managing Solicitor (DPO), extension 7175**



To: Council

On: 21 December 2017

Report by: Head of Corporate Governance as Monitoring Officer

Heading: Standards Commission for Scotland: Decision of the Hearing Panel of the Commission

1. Summary

- 1.1 Two complaints were made to the Commission for Ethical Standards in Public Life in Scotland alleging that Councillor Paul Mack had contravened the councillors' code of conduct by failing to respect the chair at the meeting of the Council held on 29 September 2016 and failing to comply with her rulings.
- 1.2 The Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner) conducted an investigation into the complaint and concluded that Councillor Mack had contravened the code. The Commissioner subsequently submitted a report to the Standards Commission for Scotland (the Commission) on the outcome of his investigation.
- 1.3 The Commission, following receipt of the Commissioner's report, decided to hold a hearing in relation to the complaint and this hearing took place in Renfrewshire House on 23 October 2017.
- 1.4 The Hearing Panel issued an oral decision at the conclusion of the hearing that Councillor Mack had contravened paragraph 3.2 of the Code and that the comments made by him at the Council meeting on 29 September 2016 did not attract the protection given to political expression by Article 10 of the European Convention of Human Rights.

- 1.5 The Hearing Panel indicated that they had found that Councillor Mack had failed to comply with rulings made by the Provost and had repeatedly challenged her directions and had spoken over her. The Hearing Panel also found that Councillor Mack had made gratuitous comments and offensive remarks against others during the meeting. They then imposed a sanction of suspension to suspend Councillor Mack from all meetings of Renfrewshire Council, and of any committee or sub-committee thereof, for a period of seven months with effect from 1 November 2017.
- 1.6 This sanction is made under terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000 section 19(1)(b)(ii). The effect of the sanction is that Councillor Mack will be unable to attend any meetings of the Council, Cross Party Sounding Board, Education & Children's Services Policy Board, Paisley South Local Area Committee or the Appeals Board until 31 May 2018.
- 1.7 The written decision of the Hearing Panel has been received and a copy is appended to this report. This sets out the reasons for the decision that a breach of the code had been proven and the factors taken into account in deciding on the sanction imposed.
- 1.8 In terms of the Ethical Standards in Public Life (Scotland) Act 2000 a council receiving a copy of findings from the Standards Commission requires to consider those findings within three months of receiving them (or within such longer period as the Commission may specify).
- 1.9 Members are reminded that training on governance (which includes the councillors' code of conduct) has been and will continue to be provided to members as part of their training and development programme. Individual members can seek advice from the Head of Corporate Governance on any issues arising from the Code.

2. **Recommendation**

- 2.1 That the Council, in accordance with the terms of the Ethical Standards in Public Life etc (Scotland) Act 2000, note the findings of the Standards Commission on this complaint.
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Implications of the Report

1. **Financial** - none
2. **HR & Organisational Development** - none
3. **Community Planning** – none
4. **Legal** – in terms of the Ethical Standards in Public Life etc (Scotland) Act 2000 a council requires to consider the findings of the Standards Commission within 3 months of receipt (or within such longer period as the Commission may specify).
5. **Property/Assets** - none
6. **Information Technology** – none
7. **Equality & Human Rights** - The recommendation contained within this report has been assessed in relation to its impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** - none
9. **Procurement** – none
10. **Risk** – none.
11. **Privacy Impact** – none
12. **CoSLA Policy Position** – not applicable

List of Background Papers – none – report on Standards Commission's findings is appended.

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Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at Renfrewshire Council, Cotton Street, Paisley, on 23 October 2017.

Panel Members: Mr Michael McCormick, Chair of the Hearing Panel
Mr Kevin Dunion, OBE
Mrs Lindsey Gallanders

The Hearing arose in respect of a Report by Mr Bill Thomson, the Commissioner for Ethical Standards in Public Life in Scotland (the CESPLS) further to complaint references LA/R/1946 & 1973 (the complaints) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Paul Mack (the Respondent).

COMPLAINT

Two complaints were received by the CESPLS about the alleged conduct of the Respondent at a meeting of Renfrewshire Council on 29 September 2016. Following an investigation, the CESPLS referred the complaints to the Standards Commission for Scotland on 30 August 2017 in accordance with section 14(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

The substance of the referral was that the Respondent had failed to comply with the provisions of the Councillors' Code of Conduct and in particular, that he had contravened paragraph 3.2.

The relevant provision is:

3.2 You must respect the chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, and represent the Council. You must comply with rulings from the chair in the conduct of the business of these meetings.

Preliminary Matters

The Respondent advised he wished to lodge late productions, being the notice of meeting, agenda and minutes of a meeting of Renfrewshire Council on 22 June 2016, and the minutes of its Regulatory Functions Board on 11 May and 22 September 2016. The CESPLS advised that he had no objection to the productions being lodged and the Hearing Panel accepted the documents.

The Respondent indicated that none of the four witnesses he wished to call had agreed to attend and give evidence. These individuals were the two complainers and two other elected members, all of whom were present at the Council meeting on 29 September 2016. The Chair of the Hearing Panel noted that one of the complainers, the former Provost, was to appear as a witness for the CESPLS and that the Respondent would, therefore, have the opportunity to question her under cross-examination. In response to a query from the Chair, the Respondent advised that he had not asked the other complainer to be a witness and that while he had contacted the secretaries of the other two elected members, he had not heard back from them. The Chair noted that, in terms of the Standards Commission's Hearing Rules, a copy of which had been sent to the Respondent, he was entitled to ask the Standards Commission to cite witnesses, but he had not done so. The

Chair further noted that the issue of what witnesses were to be called had been discussed at the pre-Hearing meeting. The Respondent had, however, failed to respond to the Standards Commission's invitation to attend the meeting.

The Respondent noted that the CESPLS intended to show extracts of a webcast of the meeting of Renfrewshire Council on 29 September 2016. The Respondent complained that this was contrary to natural justice as the recording had been 'selectively edited'. He argued that it should either be played in full, along with recordings of the further meetings referred to in the additional productions he had lodged, or not at all. The Hearing Panel determined, however, that the Respondent had been given the opportunity to lodge productions and had been advised of the parts of the webcast the CESPLS intended to show well in advance of the Hearing. It noted that, as such, the Respondent could have asked for other sections to be presented but that he had not availed himself of this opportunity. The Hearing Panel further determined that, as the complaints concerned the Respondent's conduct at certain times during the meeting, it was satisfied that any webcast allegedly recording this behaviour was relevant evidence and should be allowed, and that recording of other parts of the meeting or other meetings would not necessarily be relevant.

The Hearing Panel accepted the CESPLS's assurance that he was only showing extracts of the meeting he considered to be relevant to the complaint in an attempt to be proportionate and to ensure the Hearing was not prolonged unnecessarily. The Hearing Panel considered this was appropriate, given that the Council meeting in question had lasted in excess of four hours. The Hearing Panel further accepted the CESPLS's assurance that he had not, in any way, tampered with the webcast. The Hearing Panel noted that, any event, it was to be shown a webcast taken directly from Renfrewshire Council's website, as opposed to any recording supplied by the CESPLS.

The Respondent indicated he considered it was unfair that the Hearing Panel would only be considering a recording of the meeting on 29 September 2016 and not any other Council meetings he had attended. The Hearing Panel noted, however, that the complaints under consideration only concerned his conduct at the one specific meeting and determined that recordings of other meetings would not, therefore, be relevant.

The Respondent advised he did not intend to remain in the room while extracts of the webcast were being played. The Chair of the Hearing Panel acknowledged that the Respondent was entitled to leave if he wished but suggested he would be in a better position to challenge any submissions made by the CESPLS on the footage if he remained in the room.

Evidence Presented at the Hearing

The CESPLS submitted that paragraph 3.2 of the Code was designed to ensure elected members adhered to basic standards of behaviour in the conduct of Council business. He indicated that the public were entitled to have a high expectation that elected members would conduct themselves and undertake their duties in a manner that was beyond reproach. The CESPLS alleged that the Respondent had, however, failed to do so at the Council meeting on 29 September 2016 in that he:

- failed to show respect to the former Provost, Ms Hall, who was chairing the meeting by repeatedly ignoring her directions, challenging her decisions and speaking over her;
- failed to show respect to other elected members at the meeting in that he initially failed to leave the meeting despite a motion under the Council's Standing Orders to suspend him from the meeting being passed; and

- failed to show respect to other elected members at the meeting by repeatedly talking over them and by making offensive personal comments.

The CESPLS indicated that Respondent had advised, in correspondence of 14 August 2017 in response to the draft report, that he refused to read the Code for 'theological reasons'. The CESPLS noted, however, that the Code had been issued by Scottish Ministers in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000 and, as such, it enjoyed the force of law. The CESPLS further advised that, when elected, the Respondent had signed a declaration of acceptance of office, which included confirming that he undertook to meet the requirements of the Code.

At the CESPLS's request, extracts of the webcast of the Council meeting on 29 September 2016 were shown. In particular, the CESPLS asked the Hearing Panel to note that, when agenda item one was being considered, the Respondent repeatedly talked and shouted over the Chair, despite being asked to desist.

The CESPLS highlighted that, when item four of the agenda was being discussed, the Respondent referred to another elected member present by name as "our local SS officer". The CESPLS argued that this was an offensive, personal insult. The Respondent confirmed he had used this comment, therefore the relevant extract of the recording was not played.

The CESPLS noted that, at item 13 of the agenda, the Respondent questioned who read the Paisley Daily Express and when the Chair attempted to interrupt him, aggressively talked over her and accused her of having a 'side deal' with the newspaper. The Chair subsequently tried to intervene again when the Respondent then started making an allegation about contaminated land, on the grounds that he was "scaremongering". Despite the Chair determining that the matter under consideration had been agreed, the Respondent continued to shout over her to the extent that the Chair had been required to adjourn the meeting. The relevant extract of the meeting's recording was shown.

The CESPLS asked the Hearing Panel to note that, after the meeting was reconvened and item 17 was being considered, the Respondent made a point and then stated "them up at the Celtic end" would not be capable of understanding it. The CESPLS noted the reference was directed towards members of the Labour Group and contended it was attempt to categorise them by religious belief and to cast doubt on their intelligence. It was, therefore, disrespectful and sectarian. The Respondent then referred to a female councillor as being "a cross between Hyacinth Bucket and Glenn Close just before she boiled the rabbit". The CESPLS contended that in making such a reference, which had nothing to do with the item under consideration, the Respondent was simply making a gratuitous and offensive comment. Again the relevant meeting extract was played.

The CESPLS noted that, at item 31 of the agenda, the Respondent accused another elected member and "his cronies" of "troussing" Council funds, "self-enrichment", "a kleptocracy" and being involved in the "misappropriation of funds to the tune of £400,000". Despite the Chair repeatedly intervening and asking him to stop making such accusations and references, the Respondent continued speaking and shouting over her. The CESPLS asked the Hearing Panel to note that the Chair then moved a motion under the Council's Standing Orders to suspend the Respondent from the meeting. After the motion was approved by a majority vote, the Respondent refused to leave and stated he would remain where he was but not speak again. It

was only when the Chair adjourned the meeting again that the Respondent moved to the public benches. The relevant sections of the meeting's recording were played.

The CESPLS noted that Article 10 of the European Convention on Human Rights (ECHR) affords local politicians enhanced protection in terms of their right to freedom of expression. He submitted, however, that the Respondent's conduct in making insulting, gratuitous and deeply personal comments about other elected members, as well as serious criminal allegations, fell outwith the latitude allowed. It was highlighted that the Respondent's remarks were based on historical personal grievances and were not relevant to matters being considered at the meeting. The CESPLS additionally argued that the Respondent's behaviour in repeatedly interrupting the meeting, in inhibiting others from speaking and in failing to comply with rulings of the Chair, prevented the Council from effectively conducting its business and also undermined public confidence in its ability to do so.

The CESPLS called the former Provost, Ms Hall, to give evidence. Ms Hall confirmed that she had chaired the Council meeting on 29 September 2016. She gave evidence to the effect that it was the first and only time in her five year tenure as Provost that she had sought to have an elected member removed from a meeting and that she had only done so as a last resort when she had been unable to bring the meeting to order. Ms Hall advised that she had thought long and hard before submitting a complaint to the CESPLS about the Respondent's behaviour but had finally decided to do so because she considered his conduct was so serious and disruptive. Ms Hall advised that she accepted elected members had a right to speak at Council meetings but that she considered the Respondent's behaviour at the meeting in question was such that it had become difficult for other councillors to speak. As a result of his conduct, she had felt like she was losing control of the meeting.

Under cross-examination, Ms Hall confirmed that the Respondent's suspension from the meeting was not pre-planned and had only happened because he had become increasingly volatile and was not listening to her. Ms Hall indicated that she considered the Respondent to be a gifted politician and that she had no axe to grind with him, but that she had been concerned about the impact of his behaviour on the public's overall perception of the Council. Ms Hall accepted that, under item one, the Respondent was attempting to identify a member of the public who he alleged had engaged in criminal conduct towards him. Ms Hall indicated she had prevented him from doing so, in accordance with her normal practice, as she considered it was unfair to make derogatory remarks or criminal allegations regarding an individual who was not present at the meeting and could not, therefore, respond to the allegation. Ms Hall confirmed that she had no 'side deal' with the Paisley Daily Express.

The Respondent gave evidence on his own behalf to the effect that, despite having previously complained about the lack of proper notice, he had only received the minute of the Council's Regulatory Functions Board of 22 September 2016 (which was to be considered under item one), immediately before the Council meeting on 29 September 2016. The Respondent indicated he was exasperated by this given it prevented him from being unable to effectively perform the scrutiny role he was expected to undertake. The Respondent advised that he was trying to confirm the identity of an individual who had been granted taxi operators' licences at the Regulatory Functions Board as he considered the individual was someone who had previously made an attempt on his life and threats towards him. The Respondent indicated that the Chair's refusal to confirm the identity of the individual had "set the tone for the day".

The Respondent stated that he had been advised, by two members who were present, that the Labour Group had, at a meeting on 27 September 2016, decided on the tactics they would employ towards him at the Council meeting on 29 September 2016. He reported that the strategy adopted had been to set him up by ensuring the Chair gave him much more leeway than normal to speak, in the expectation he would exceed the acceptable boundaries of debating conduct.

The Respondent indicated that a number of other elected members continually made derogatory remarks about him at Council meetings, including alleging that he was a misogynist and referring to a previous “minor peccadillo”. He advised that he was, by nature, a “counter puncher” and while he usually tried to rise above such comments, he felt he could not miss the opportunity when it arose at the meeting on 29 September 2016 to “hit back” and remind the other councillors of their own shortcomings. The Respondent advised he had been the subject of a 30 year hate campaign and argued, therefore, the comments he made were relevant and not gratuitous. The Respondent advised that the Paisley Daily Express had a vendetta against him and failed to cover his contributions to debates, meaning the only way he could obtain publicity was to behave in the manner in which he had.

In response to questions from the Hearing Panel, the Respondent confirmed he accepted he made the comments as alleged by the CESPLS in his report. The Respondent indicated it had not been his intention to offend anyone and that he would have apologised if he thought anyone had been genuinely hurt by what he said; noting that, in his view, people should be more thick-skinned. The Respondent contended that the comments he had made were intended to be humorous and, at worst, could be considered infantile. The Respondent advised he was simply trying to expose the hypocrisy of other elected members. He considered any attempt to control what words he could and could not use and to suppress his right to freedom of expression was ‘Orwellian’ and an affront to democracy.

DECISION

The Hearing Panel considered all of the evidence including the submissions made at the Hearing.

The Hearing Panel found that, during the early part of the Council meeting on 29 September 2016, the Respondent talked or shouted over the Provost, who was chairing the meeting, on several occasions. The Hearing Panel found that the Respondent had done so in an aggressive manner, despite the Provost making it clear she wished him to stop, to the extent that she had been required to adjourn the meeting to restore order.

The Hearing Panel noted that, by his own admission, the Respondent used the meeting to indulge in the opportunity to air long held personal grievances and to obtain publicity.

The Hearing Panel further found that the Respondent also directed a number of offensive and personal remarks towards individuals during the course of the meeting. It noted, in particular, that it was not in dispute that:

- During a discussion on item four of the agenda, the Respondent referred to another elected member as “our local SS Officer”.
- During a discussion on item 17 of the agenda, the Respondent made a reference to “them up the Celtic end” not being intellectually able to understand an issue and to another elected member as being “a cross between Hyacinth Bucket and Glenn Close when she was about to boil a bunny”.

The Hearing Panel found that the Respondent had also used the meeting to make a number of serious allegations. This included:

- Making repeated accusations, during a discussion on item 31 of the agenda, that a named fellow councillor and his “cronies” were involved in the “misappropriation of funds to the tune of £400,000”. The Hearing Panel found that when the Chair had asked the Respondent to cease making such accusation, he had continued to do so and had continued talking and shouting.

The Hearing Panel determined that the Respondent further refused to comply with a number of requests made by the Chair to desist in his disruptive behaviour. The Hearing Panel considered these requests were reasonable as the Respondent’s conduct was clearly having an adverse impact on the progress of the meeting and was preventing others from speaking. The Hearing Panel noted that, ultimately, the Chair had to resort to seeking a motion to have the Respondent removed from the meeting. The Hearing Panel noted that as the Respondent initially failed to comply with the ruling, the Chair was forced to call a further adjournment and that this was the only occasion that the former Provost, during the five years of her tenure, had sought such a motion.

The Hearing Panel concluded that the Respondent had failed to show respect to the Chair at the meeting of the Council on 29 September 2016 by repeatedly ignoring her directions, by challenging her decisions and by speaking over her. The Respondent had also failed to comply with a ruling she had made and, as such, had contravened paragraph 3.2 of the Code.

The Hearing Panel proceeded to consider whether the Respondent had also breached paragraph 3.2 of the Code in respect of the remarks and accusations he had directed at other elected members during the course of the meeting. The Hearing Panel noted that issues concerning the Respondent’s right to freedom of expression arose in respect of its determination and, therefore, in reaching its decision, the Hearing Panel followed the approach outlined in the Standards Commission’s Advice Note on the Application of Article 10 of the EHCR. The Hearing Panel concluded that the Respondent’s remarks, as highlighted above, amounted to personal attacks and were offensive and abusive. The Hearing Panel concluded that, in making comments of this nature the Respondent had, on the face of it, failed to comply with the obligation as outlined in paragraph 3.2 of the Code, to treat his colleagues with respect.

The Hearing Panel proceeded to consider whether a finding that the Respondent had failed to comply with the provisions of the Code was a breach of his right to freedom of expression under Article 10 of the ECHR. In coming to a view, the Hearing Panel firstly considered whether the comments the Respondent made amounted to political expression. It noted that the Courts had interpreted the term ‘political expression’ widely and had found that there was no distinction between political discussion and discussion on matters of public concern.

In this particular case the Hearing Panel determined, however, that while the Respondent had made his comments and accusations in a Council meeting, (a clearly political context), they did not directly relate to the agenda items being considered and were instead gratuitous personal asides. Indeed, the Hearing Panel noted that the Respondent acknowledged that he had made his remarks in furtherance of personal grievances and to seek publicity. The Hearing Panel concluded, therefore, that his comments did not attract the enhanced protection of freedom of expression afforded to political expression under Article 10 of the ECHR.

The Hearing Panel noted that it was also required to consider whether there were relevant and sufficient reasons to justify the interference to the Respondent's right to freedom of expression and whether the restriction was proportionate to the legitimate aim being pursued. As such, the Hearing Panel was required to undertake a balancing exercise; weighing the right to freedom of expression enjoyed by the Respondent against any restriction imposed by a finding of a breach of the Code and application of a sanction.

In this case, the Hearing Panel concluded that the Respondent's comments and accusations were offensive, insulting and amounted to personal attacks. The Hearing Panel was of the view, therefore, that the Respondent's conduct was egregious. It concluded that the Respondent's remarks adversely affected the rights and reputations of the individual councillors to which they had been directed. The Hearing Panel found that the Respondent's conduct had the potential to undermine the public's confidence in local government and was a threat to both reputation of the council and the role of an elected member. The Hearing Panel determined, therefore, that the imposition of a restriction in the circumstances was relevant, sufficient and proportionate. The Hearing Panel found that the Respondent's conduct was unacceptable and concluded that, as such, it was satisfied that a finding of breach, and subsequent application of a sanction, was justified and would not amount to a contravention of Article 10 of the ECHR.

The Hearing Panel, having given careful consideration to the particular facts and specific circumstances of the case, determined that the Respondent, Councillor Mack, had breached paragraph 3.2 of the Councillors' Code of Conduct.

Evidence in Mitigation

The Respondent indicated that he did not recognise the Standards Commission and considered it to be a "kangaroo court", which had turned natural justice and fairness on its head. The Respondent advised he considered the whole complaint and Hearing process to be a scandalous waste of public money and that it was "nonsense on stilts". The Respondent confirmed that he did not intend to make any submission or lead any witnesses in respect of mitigation or the sanction to be applied.

SANCTION

The decision of the Hearing Panel was to suspend, the Respondent's entitlement to attend all meetings of Renfrewshire Council, and of any committee or sub-committee thereof, for a period of seven months with effect from 1 November 2017.

The decision was made in terms section 19(1)(c) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reason for Sanction

In reaching their decision, the Hearing Panel noted that the Respondent declined to offer any submissions in mitigation.

1. The Hearing Panel considered it had been the Respondent's personal responsibility to comply with the Code at the time. The Hearing Panel noted that the Respondent had failed to do so, despite having signed a declaration confirming he would comply with its

requirements, and despite being aware at the time of the meeting in question that a complaint had been made against him in respect of a different meeting for a breach of the same paragraph of the Code.

2. The Hearing Panel noted that the Standards Commission, at a Hearing on 17 October 2016, had suspended the Respondent for three months from a Committee of the Council for a breach of the same provision of the Code in respect of the previous complaint. The Hearing Panel was aware, however, that a previous Hearing had taken place, and the suspension had been imposed, after the events in respect of this complaint had occurred.
3. The Hearing Panel noted that the Respondent had indicated that he refused, for 'theological reasons', to read the Code. The Hearing Panel found that the Respondent was entirely dismissive of the ethical standards framework, including the Code, the Commissioner for Ethical Standards and the Standards Commission.
4. The Hearing Panel was of the view that councillors should undertake a scrutiny role, represent the public and any constituents; and make political points in a respectful, courteous and appropriate manner without resorting to personal attacks, being offensive, abusive and, or, unduly disruptive.
5. The Hearing Panel determined that the Respondent's behaviour was deliberate and serious in nature and was in furtherance of his own personal grievances. The Hearing Panel considered that the manner in which the Respondent had raised his views was unacceptable and, further, that his comments amounted to personal attacks on fellow councillors. As such, his behaviour could have undermined public confidence in local government.
6. The Hearing Panel found that the Respondent had been disrespectful towards the Provost, as chair of the meeting on 29 September 2016 and had, on numerous occasions, failed to comply with her rulings and had disrupted the meeting. As such, his sustained conduct at the meeting inhibited the Council from functioning effectively and was a threat to reputation of the council and the role of an elected member.

RIGHT OF APPEAL

The attention of the Respondent was drawn to Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 as amended which details the right of appeal in respect of this decision.

Date: 25 October 2017



**Mr Michael McCormick
Chair of the Hearing Panel**