

Scotland Excel

To: Joint Committee

On: 17 June 2016

Report by The Clerk to Scotland Excel

Review of Scotland Excel Governance

1. Summary

- 1.1 The purpose of this report is to seek approval from the Joint Committee for the revised Scheme of Delegations; [Financial Regulations]; and Chief Executive Officers Management Group Procedures set out in the Appendix to this report.

2. Recommendations

- 2.1 The Joint Committee is recommended to:
- a) Approve the revised Scheme of Delegations and Chief Executive Officers Management Group Procedures set out in the Appendix to this report.
 - b) Delegate authority to the Executive Sub Committee to appoint members to the Chief Executive Officers Management Group based on nominations from Society of Local Authority Chief Executives and Senior Managers (Solace).
 - c) Note that membership of the Chief Executive Officers Management Group shall next be reviewed by the Joint Committee at its meeting in November/December 2017.

3. Background

- 3.1 The Management Team has carried out a review of Scotland Excel's governance arrangements to ensure these continue to meet the needs of the organisation.
- 3.2 The conclusion from the review is that the governance arrangements are, generally, still fit for purpose. However, it is proposed that the Chief Executive Officers Management Group should have a greater role in ensuring delivery of Scotland Excel's overall business plan objectives and in providing strategic direction for Scotland Excel.

3.3 During the review, the Director has had positive discussions with Council Chief Executives, through Solace, and they are supportive of these proposals in principle.

4. **Revisals to the Governance Arrangements**

4.1 The revised Scheme of Delegations and Chief Executive Officers Management Group Procedures are set out in the Appendix to this report.

4.2 The key changes are as follows:-

- a) Revised delegations to the Chief Executive Officers Management Group which reflect its increased role are contained in section 5 of the Scheme of Delegations.
- b) The delegations contained in section 6 of the Scheme of Delegations have been revised to include authorisation to the Director, in conjunction with the Joint Committee and the Chief Executive Officers Management Group, to determine the business plan and strategic objectives for Scotland Excel.
- c) Some minor changes have also been made in section 6 of the Scheme of Delegations relating to the circumstances where the Director must consult with others before taking action or making decisions.
- d) Changes have been made to the Chief Executive Officers Management Group Procedures to reflect the revised role of the group and to provide that annual nominations for its membership shall be sought from Solace Scotland.



SCOTLAND EXCEL SCHEME OF DELEGATIONS

SCOTLAND EXCEL - SCHEME OF DELEGATIONS

1. General Principles

- 1.1 The exercise of delegations as described in this Scheme is subject always to the following:-
- a) the policies of Scotland Excel as embodied in any formal document which has been approved and issued and in particular, Standing Orders and any other Guidance issued in connection with the exercise of a particular function
 - b) appropriate provisions for financial outlays having been made in the estimates for the current financial year
 - c) the joint committee may choose to exercise any of the functions delegated in this Scheme where the joint committee believes it to be in the interests of Scotland Excel to do so
- 1.2 Where a word or expression is used in the Scheme that is a defined term in the Scotland Excel terms and conditions signed by each Member Authority, (“the terms and conditions”) that word or expression will be given to it the same meaning as in those terms and conditions.
- 1.3 Words imparting the masculine gender only shall include the feminine gender and vice versa.

2.0 Matters Reserved to the Joint Committee

- 2.1 The following matters shall be reserved for the decision of the joint committee:-
- a) the making of governance arrangements for the joint committee, the executive sub-committee and any other sub-committee;
 - b) the approval of the annual budget and any review or amendment of the budget;
 - c) approval of the overall procurement strategy;
 - d) the approval of the annual business plan; and
 - e) the consideration of the annual report on the performance of Scotland Excel.

3. Convener and Vice Convener of the Joint Committee

- 3.1 The Convener, whom failing the Vice-Convener, shall be authorised in furtherance of the duties of his office to undertake visits within the United Kingdom.
- 3.2 The Convener, whom failing the Vice-Convener, shall be authorised to incur expenditure to meet the expenses of his office on the provision of reasonable hospitality, to representatives of Member Authorities or other organisations.

4. Executive Sub-Committee

- 4.1 Meetings of the Executive sub-committee shall be convened and conducted in accordance with procedural standing orders approved by the joint committee.
- 4.2 The Executive sub-committee shall consider such matters as are delegated to it by the joint committee.
- 4.3 The matters initially delegated to the Executive sub-committee are as follows:-
- a) to approve or endorse as appropriate executive actions recommended by the Director
 - b) to deal with urgent matters relating to staffing or to the structure of Scotland Excel
 - c) the selection process for appointments to the posts of Director or Heads of Service
 - d) to approve the award and extension of contracts or groups of contract in terms of the Standing Orders Relating to Contracts.
- to consider and determine:-
- (i) urgent matters relating to contract continuity which cannot be dealt with by the Joint Committee;
 - (ii) approval or homologation of matters where urgency precludes full Joint Committee consideration; and
 - (iii) any other matter referred to the Executive Sub Committee by the Joint Committee.
- 4.4 The Executive sub-committee may delegate to the Director or such other suitably qualified person, the power to make decisions regarding the award and extension of any contract or group of contracts or contracts of an estimated value below a financial threshold fixed by them.
- 4.5 The joint committee may at its discretion add or remove matters from the list of delegations to the Executive Sub Committee.

5. The Management Group

- 5.1 The Management Group shall comprise such number of Chief Executives of Member Authorities as set out in the terms and conditions.
- 5.2 The Chair of the Management Group shall be the person appointed by the Joint Committee or his/her nominee.
- 5.3 The Management Group shall ensure delivery of Scotland Excel's overall business plan objectives and shall provide strategic direction for Scotland Excel, particularly on the following matters:-
- a) Portfolio priorities including new areas to be developed and areas to be amended or discontinued.
 - b) Social Policy including in the use of community benefits clauses, the living wage, and blacklisting.
 - c) Supporting local economic growth.
 - d) Opportunities for Scotland Excel to provide additional shared services to support member councils, in line with the drive for efficiency across the public sector.
 - e) National priorities, for example those arising from existing or new legislation and procurement reform.
 - f) Opportunities for increasing innovation in supply chains to improve efficiency and service delivery.
 - g) Opportunities for Scotland Excel to support councils in delivering their City Deal objectives.
 - h) Opportunities for additional funding sources, for example through the extension of the Associate Membership base.
 - i) Review of funding and governance models to ensure that these remain fit for purpose and competitive.
- 5.4 The Management Group shall monitor the use made by Member Authorities and Associate Members of contracts awarded on behalf of Scotland Excel.
- 5.5 The Management Group may request employees of Member Authorities or other persons to attend meetings of the Management Group to act as advisors to the Group or to prepare reports for consideration by the Management Group.
- 5.6 The Management Group shall have responsibility for the overall supervision and monitoring of the performance of the Director and the Scotland Excel staff.

6 The Director

- 6.1 The delegations to the Director shall also be delegations to the Heads of Service but only in those circumstances where the Director is not available to

exercise any of these delegations.

6.2 The Director is authorised:-

- a) In conjunction with the Joint Committee and the Management Group, to determine the business plan and strategic objectives for Scotland Excel.
- b) Subject to the Financial Regulations and subject to there being appropriate provision in the budget, to deploy resources as the Director thinks fit for the best execution of functions under the Director's management.
- c) To organise working processes safely.
- d) To maintain proper security for staff, buildings, stock, stores, furniture, equipment and similar items under the Director's control. Where special arrangements are considered necessary the Director shall consult with the Treasurer.
- e) To ensure that all activities undertaken are within the legal powers of Scotland Excel and in the event of doubt to consult with the Clerk.
- f) Where thought to be in the interests of Scotland Excel to approve the provision of reasonable hospitality up to a maximum of £1,000 in relation to any one occasion. The Director shall maintain a register of hospitality approved under this delegation and shall provide a report to the Executive Sub-Committee on request detailing the entries in the register.
- g) To sign all documents on behalf of Scotland Excel relevant to the functions for which the Director is responsible and to authorise other officers to do so, excluding always any specific provisions made for documents in terms of primary or subordinate legislation, statutory direction, the policies of Scotland Excel or in this or other administrative schemes.
- h) To terminate on behalf of Scotland Excel any contract which Scotland Excel is entitled to terminate under the appropriate conditions of contract after consultation with the Clerk, if satisfied that it is in the interests of Scotland Excel and of any Member Authority or other body on whose behalf the contract was entered into.
- i) To act in an emergency situation with the approval of the Clerk and where possible after consulting the Convener, or in his absence the Vice-Convener of the joint committee and the Chair of the Management Group, and thereafter report on the action taken to the first available meeting of the joint committee.
- j) In consultation with the Clerk, to make decisions regarding complaints made under Scotland Excel's complaints procedure.
- k) To issue publicity, including pamphlets or other forms of publicity relating to the promotion of Scotland Excel's interests and to issue press releases

on behalf of Scotland Excel. Before doing so, if the Director considers it to be necessary, the Director may consult with the Chair or Vice Chair of the Management Group.

- l) To deal with any operational matter not otherwise delegated in the period between the last meeting of the joint committee and prior to the setting up of a new joint committee following statutory elections.
- m) To submit responses to consultation documents which concern operational issues.
- n) To authorise the acceptance of gifts on behalf of Scotland Excel and acknowledge the acceptance of these gifts.
- o) To sign and issue (i) authorisation to Scotland Excel staff to exercise statutory powers; and (ii) identity cards.
- p) To take all necessary action of a routine nature in terms of the Director's appointment, to implement any policies, practices and procedures previously agreed by the Joint Committee, the Executive Sub-Committee any other sub-committee and the Management Group and also to take such action implicitly in all matters ancillary thereto, including the incurring of expenditure of a minor or recurring nature and for which adequate provisions have been made in the budget.
- q) To approve the attendance of officers at conferences within the United Kingdom, where considered to be in the interests of Scotland Excel provided that the cost does not exceed £1500 exclusive of VAT, subsistence travelling, or other ancillary expenses.
- r) To authorise the attendance of officers on full or part time courses of study or training and the payment of appropriate fees.
- s) To appoint all staff below the level of Head of Service within the authorised establishment except where the joint committee determines otherwise.
- t) To exercise the powers given to Chief Officers in the various conditions of service so far as discipline and efficiency are concerned.
- u) To apply the lead authority's Conditions of Service as affecting members of staff.
- v) To authorise the working of overtime by appropriate grades of officers and the payment of overtime or compensatory leave or honoraria in accordance with the criteria laid down by the lead authority.
- w) To permit any member of staff to absent themselves occasionally and temporarily during business hours to attend to duties or services of a civic honorary, charitable, academic or social nature provided that these do not interfere with the efficient discharge of the functions of Scotland Excel and to grant special leave in accordance with the lead authority's special leave

policy. The Director shall maintain a register of occasional and temporary absences and special leave approved under this delegation and shall provide a report to the Executive Sub-Committee on an annual basis detailing the entries in the register.

- x) To appoint temporary staff on appropriate grades additional to the formal establishment to address additional workload peaks, such appointments to be for periods not exceeding 13 weeks or such longer period as may be approved by the Management Group and subject to funding being met from existing budgets. If the Director considers it to be necessary, the Director may take advice on these appointments from the lead authority's Human Resources and Organisational Development Team.
- y) To allow reasonable unpaid leave of absence to any employee to attend to public duties as defined in section 50(1) of the Employment Rights Act 1996 on such conditions as the Director considers appropriate where this will not interfere with the efficient discharge of the functions of the Scotland Excel and in accordance with lead authority's special leave policy.
- z) Subject to the exigencies of the service to approved the secondment of staff between Scotland Excel and other Member Authorities or other organisations such appointments to be for periods not exceeding six months. If the Director considers it to be necessary, the Director may take advice on these appointments from the lead authority's Human Resources and Organisational Development Team.
- aa) To approve salary placings within the agreed salary scales in consultation with the lead authority's Human Resources and Organisational Development Team.
- bb) To determine the public holidays to be taken by Scotland Excel staff.
- cc) To authorise the payment of accounts due by Scotland Excel for goods and services properly supplied and for which there is adequate provision in the estimates.
- dd) To make recompense in respect of damage to, or loss of employees personal property in respect of any one incident up to an amount not exceeding £500 and up to £1000 with the agreement of the Treasurer.
- ee) To advise the Treasurer about any extraordinary financial obligation which will affect Scotland Excel.
- ff) To advise the Treasurer about any extraordinary risk which will affect the insurance held on behalf of Scotland Excel.
- gg) Following consultation with the Treasurer to decide in terms of the lead authority's procedures whether to refer any particular case to the Police.

7. The Clerk

The Clerk is empowered:-

- a) To act as adviser to the joint committee and the Management Group on procedural and administrative matters and in this capacity to ensure the provision of adequate administrative, legal and personnel support to the joint committee, the Executive Sub-Committee and the Management Group.
- b) To act as proper officer to exclude reports containing exempt information from the public, and to provide documents to the press, in accordance with the provisions of section 50(B) of the Local Government (Scotland) Act 1973.
- c) To liaise and deal with any enquiries made by the Scottish Public Services Ombudsman. Should any investigation be carried out by the Scottish Public Services Ombudsman resulting from a complaint received, the necessary arrangements will be undertaken by the Clerk, within timescales specified within the guidance to local authorities in dealing with formal investigation involving the Scottish Public Services Ombudsman.
- d) Following consultation with the Director and the Treasurer, to authorise ex-gratia payments up to a maximum of £1,000 relative to recommendations of the Scottish Public Services Ombudsman.
- e) To exercise delegations in terms of the Standing Orders relating to Contracts.
- f) To exercise delegations in terms of the Financial Regulations.
- g) To maintain a register for inspection by the Surveillance Commissioner of authorisations for covert surveillance approved by the Director under sections 6 and 7 of the Regulation of Investigatory Powers (Scotland) Act 2000 and the appointment officer to act as investigation managers for the purposes of the Act.

8 The Treasurer

The Treasurer is empowered:

- a) To co-ordinate the financial planning of Scotland Excel in terms of the Financial Regulations.
- b) To issue guidance for the control of all expenditure in terms of the Financial Regulations.
- c) To determine procedures for accounting and financial record keeping by Scotland Excel.

- d) In respect of insurance:
 - i) to make arrangements with insurance companies concerning the settlement of claims
 - (ii) In consultation with the Clerk, the Convener of the Joint Committee and the Director to settle without reference to the Joint Committee claims against Scotland Excel not otherwise covered by Scotland Excel's insurance arrangements up to a maximum of £50,000 per claim and with the approval of the Chair, whom failing the Vice-Chair, of the Management Group up to maximum of £100,000 per claim.
- e) To make the necessary arrangements concerning the collection of debts owed to Scotland Excel and the terms and commissions payable for services rendered by other authorities and agents with regard to the collect of debt.
- f) To determine in consultation with the Director, the beneficiary of any payments to be made in terms of the lead authority's Group Life Assurance Scheme.
- g) To exercise delegations in terms of the Standing Orders relating to Contracts.
- h) To exercise delegations in terms of the Financial Regulations.



SCOTLAND EXCEL

**CHIEF EXECUTIVE OFFICERS
MANAGEMENT GROUP
PROCEDURES**

SCOTLAND EXCEL CHIEF EXECUTIVE OFFICERS MANAGEMENT GROUP PROCEDURES

1.0 Introduction

- 1.1 The Chief Executive Officers Management Group (“the Group”) comprises six Chief Executives from the Member Authorities of Scotland Excel. The Chief Executive of Renfrewshire Council is a standing member of the Group due to Renfrewshire Council being the lead authority for Scotland Excel. The other five members of the Group are appointed annually by the Scotland Excel Joint Committee although membership can be renewed. The matters to be dealt with by the Group are set out in the Terms and Conditions signed by each Member Authority and Scotland Excel’s Scheme of Delegations and Procedural Standing Orders.
- 1.2 The main responsibility of the Group is to provide strategic direction for Scotland Excel.
- 1.3 In terms of section 56 of the Local Government (Scotland) Act 1973, delegations can only be exercised by an officer and not a group of officers. Therefore any decision will be taken in the name of the Chair or the Chair’s Nominee.

2.0 Definitions

- 2.1 “the Chair” means the Chair of the Group appointed by the Joint Committee or his Nominee.

“the Clerk” means the Director of Corporate Services of Renfrewshire Council or his nominee.

“Constituent Authority” means any of the Member Authorities of Scotland Excel.

“the Executive Sub-Committee means the Sub-Committee created in terms of Clause 3.4 of the Terms and Conditions signed by each Member Authority.

“Joint Committee” means the Scotland Excel Joint Committee formed under section 57 of the Local Government (Scotland) Act 1973 for the

purpose of regulating the joint discharge of the functions by the Constituent Authorities.

“Member” means any of the Chief Executives of Constituent Authorities appointed to be members of the Group.

“Nominee” means a person of at least Director level nominated by a Member to act in place of that Member to the extent permitted in these Procedures. A Nominee need not be from the same Constituent Authority as the nominating Member. Where reasonably practicable, a Nominee shall be a Chief Executive or a Director of Finance (or equivalent).

“SOLACE Scotland” means the Scottish Branch of the Society of Local Authority Chief Executives and Senior Managers (UK)

- 2.2 The Interpretation Act 1978 applies to these Procedures in the same way as it applies to an Act Parliament.

3.0 Start

- 3.1 These procedures apply from the date they are approved by the Joint Committee. The Joint Committee may make changes to these procedures from time to time.

4.0 Meetings

- 4.1 The first meeting of the Group shall take place as soon as reasonably practicable after these procedures are approved by the Joint Committee on a date and at a venue determined by the Clerk.
- 4.2 The Group shall meet not less than 4 times in each calendar year. Other than the first meeting arranged in terms of paragraph 4.1 the dates, times and venues for meetings of the Group shall be decided by the Group. Meetings organised in terms of Paragraphs 4.1 and 4.2 shall be Ordinary Meetings of the Group.
- 4.3 In addition, the Clerk shall convene a meeting of the Group if requested in writing to do so by at least 3 Members (not including Nominees) of the Group. Any request to the Clerk to convene a meeting in terms of this paragraph must specify the business to be dealt with at that meeting. Meetings organised in terms of this paragraph 4.3 shall be Special Meetings of the Group.
- 4.4 Where the Clerk receives a request that complies with the requirements of paragraph 4.3 above, the Clerk shall convene a meeting of the Group within 14 days from the date when the Clerk receives the written request. The Clerk shall determine the time, date and venue for a Special Meeting following consultation with the Chair, if available.
- 4.5 The Chair, in consultation with the Clerk, may require that arrangements are made (for example by using video conferencing facilities) that would enable Members to either attend the meeting or to participate in the

meeting despite not being present with other Members in the place specified for the meeting.

5.0 Notice of Meetings

- 5.1 Subject to paragraph 5.2 below, at least 7 clear days notice of any meeting shall be given by the Clerk to each Member.
- 5.2 Subject to the agreement of the Chair or his Nominee, meetings may be convened at shorter notice if any Member considers it necessary to do so.
- 5.3 A notice of meeting shall contain:-
 - a) a note of the time, date and venue for the meeting
 - b) a list of the business to be transacted at the meeting
- 5.4 The Chair may permit an item of business to be transacted at any meeting notwithstanding that the item of business was not mentioned in the notice calling the meeting.
- 5.5 Failure of a Member to receive a notice of a meeting shall not invalidate that meeting or any business conducted at the meeting.
- 5.6 Notices of meetings may be issued by facsimile or electronic mail instead of by post.

6.0 Quorum

- 6.1 The quorum for any business conducted by the Group shall be 3 Members or their Nominees including the Chair or the Chair's Nominee.
- 6.2 If 10 minutes after the time stated in the notice calling the meeting a quorum is not present the meeting shall stand adjourned until such time and date as may be determined by the Clerk in consultation with the Chair, or where the Chair is not present, in consultation with the other Members present. The Clerk shall minute the reason for the adjournment of the meeting.
- 6.3 If less than a quorum is present at the consideration of an item, that item cannot be dealt with at the meeting.
- 6.4 The Chair may prior to the commencement of a meeting request any Nominee intending to participate in the meeting to provide evidence that they have been nominated by a Member.

7.0 Minutes of Meetings

- 7.1 The Clerk shall minute all meetings of the Group.
- 7.2 The Minutes shall record the names of the Members or their Nominees who attended the meeting. The Minutes shall also record the Members or their Nominees who intimate their apologies for non-attendance at a meeting to the Clerk before the meeting.
- 7.3 The Minutes shall be printed and circulated by the Clerk to all Members 7 clear days before the next meeting of the Group.
- 7.4 The Minutes shall be presented to the next meeting of the Group and corrected if necessary.

8.0 Procedures at Meetings

- 8.1 The Chair or his Nominee shall chair the meeting.
- 8.2 In the event of the Chair or his Nominee not being present the meeting shall stand adjourned.
- 8.3 Deference shall at all times be paid to the authority of the Chair.
- 8.4 The Chair shall decide all matters of order, competency and relevancy and the Chair's ruling shall be final and shall not be open for discussion.
- 8.5 At the discretion of the Chair, Members or their Nominees may attend meetings by using a telephone or video conferencing system. Members or Nominees so attending shall be deemed to be present.
- 8.6 Decisions will be taken by the Group by reaching consensus among those Members or Nominees present. Decisions taken in this way will be regarded as being decisions of the Chair.
- 8.7 Where a consensus cannot be reached on any item, the Chair will decide either to continue the matter for further consideration or may decide to refer the matter to the Executive Sub-Committee for determination. The decisions of the Chair regarding whether to continue or determine the item and then on the determination of an item shall be final.

9.0 Written Decisions

- 9.1 Any decision capable of being made by the Group at a meeting may instead be approved by all Members or Nominees in writing.
- 9.2 A Notice of a proposed written decision shall be issued by the Clerk in writing (including by facsimile or electronic mail) and shall be sent to all Members at the address given to the Clerk for this purpose.
- 9.3 Written decisions may only be dealt with on a Member's behalf by a Nominee if a Member has advised the Clerk prior to the issuing of the Notice that the matter is to be dealt with by the Member's Nominee.
- 9.4 The Notice of the written decision shall stipulate the date by which the signed decision must be returned to the Clerk. The period of time allowed for return of the written decision shall be determined by the Clerk in consultation with the Chair and shall be reasonable in the context of the urgency of the decision. If no response has been received from a Member within the stipulated period of time the Clerk may but shall not be obliged to make enquiries as to the reasons why there has been no response.

10.0 Advice and Information

- 10.1 At any meeting of the Group, the Chair may permit any person who is not a Member or Nominee to attend the meeting and to address the Group for the purposes of informing or advising the Members on any matter before them.

11.0 Conflict of Interest

- 11.1 A Member or Nominee may not participate in any discussion or be involved in any decision either at a meeting of the Group or by way of written resolution in which that Member or Nominee has or appears to have a conflict of interest.
- 11.2 It is the responsibility of each individual Member or Nominee to bring any possible conflict of interest for the attention of the Chair and the Chair shall consult with the Clerk on how to deal with the matter.
- 11.3 The Chair may permit a Member or Nominee to participate in a discussion or be involved in a decision where the Chair believes it to be correct to do so having taken into account the remoteness of the possibility that there is an actual conflict of interest.
- 11.4 Any Member or Nominee prevented from participating in a decision of the Group or who has withdrawn from the meeting due to a conflict of interest may not be counted in the quorum present at the part of the meeting where that matter was being considered.

11.5 Where a Member or Nominee is prevented from participating in a written resolution procedure because of a conflict of interest that Member or Nominee will be disregarded for the purposes of establishing that all Members or Nominees have signed the resolution.

12.0 Annual Approval of Membership

12.1 Membership of the Group shall be appointed annually by the Joint Committee although membership can be renewed.

12.2 To assist the Joint Committee to make appointments, the Group shall seek annual nominations for membership from SOLACE Scotland and shall prepare a report on these nominations for consideration by the Joint Committee.