

CORPORATE AND COMMUNITY PLANNING
STANDING SCRUTINY PANEL.

Minutes of meeting in County Buildings, Wellington Square, Ayr,
on 3rd October 2013 at 10.00 a.m.

- Present: Councillors Brian Connolly (Chair), Andy Campbell, Douglas Campbell, Alec. Clark, Ann Galbraith, John Hampton, Mary Kilpatrick and Brian McGinley.
- Attending: V. Andrews, Acting Executive Director – Resources, Governance and Organisation; C. Monaghan, Head of Policy, Community Planning and Public Affairs; D. Gillies, Head of Corporate Resources; K. O'Hagan, Head of Employee and Customer Services; H. McLaughlin, Audit Services Programme Review Manager; C. Boyd, Corporate Safety Manager; W. Gray, Project Planning and Performance Manager; and E. Wyllie, Committee Services Officer.
- Also Attending: Councillors Bill McIntosh, Robin Reid and Philip Saxton (Portfolio-holders) and Councillor McFarlane (Call-in).

1. Declaration of Interest.

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

2. Item for Call-in.

Reference was made to the Minutes of the Leadership Panel of 25th September 2013 (Page 10, paragraph 19) when that Panel, having considered a report of 11th September 2013 by the Head of Policy, Community Planning and Public Affairs, had approved the Revised Media Relations Protocol for South Ayrshire Council as outlined in Appendix 1 of the report.

The Panel was advised that the report had been the subject of a call-in (issued) ([link attached](#)) details of which, together with the written response circulated in advance of the meeting are outlined below.

Call-in requisition:-

We would ask the Scrutiny Panel to review the recommended changes to the Media Relations protocol.

Paragraph 6.2.3., the recommendation is that there be no substitute representation should a local Member be unable to attend. To ask Officers what issues have arisen since March 2010 to make this amendment?

Paragraph 6.2.5., the recommendation states "*only those who confirm attendance will be expected at the photocall*". To seek clarification from Officers whether a Member who has been invited but not replied to the invitation will be eligible to take part in the photocall?

The protocol recommends new paragraphs 6.2.6. and 6.2.7. The inclusion of these paragraphs is based on the Local Government Act 1986 as amended and the Code of Recommended Practice circular 20-88. Attached is the amended Act and the Introduction to the Code. The Code states in paragraph 5 in the Introduction that it is not concerned with the interpretation in Section 2 of the Local Government Act 1986 and therefore the recommendation contained in the new Media Protocol paragraph relies on an interpretation of the Local Government Act as amended. The report to Members includes a part of that legislation where they refer to Section 2(1), "*a Local Authority shall not publish any material which, in whole or in part, appears to be designed to affect public support or a political party*". The report does not refer to Section 2(2) which gives advice on how such material falls within the prohibition.

To ask Officers why they believe in terms of Section 2(2) that publishing a photograph of a Member of the Council wearing a party political logo in the context of a Council photocall, at a point when there is no election, is considered as designed to affect public support for a political party.

To ask Officers why they believe in terms of Section 2(2) that publishing a photograph of a Member of the Council wearing a "YES" badge or a "Better Together" badge is similarly designed to affect public support for a political party when taken in the context of Section 2(2)(a) where the prohibition relates to "*promotes or opposes a point of view on a question of political controversy which is identifiable of the view of one political party and not another*".

To ask Officers whether they will review the Council's Website and delete from the Councillors information page party affiliation in case this also contravenes Section 2(1) of the Local Government Act 1986.

In response to the call-in questions, Officers offered the following comments:-

Issues in relation to local member substitution have emerged in recent months. A photo opportunity relating to the electric charge point in Burns Statue Square was attended by a Girvan member who was substituting for a local member. There has been at least one other instance in recent months but as the communications manager is currently on leave and out of the country no other details can be provided at the present time. The key point is that local members are invited to local photocalls and there is no expectation of substitution and this amendment is designed to put that matter beyond doubt.

To ensure the smooth operation of photoshoots, the preference is for Members to indicate in advance whether or not they will participate. However, where an elected member has been invited but has not responded prior to a photocall they will be eligible to take part.

The Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity are cited in the Media Protocol under Legal Context. These provide the context for consideration of the Council's publicity considerations. The Council needs to take a comprehensive view on its publicity activity whilst complying with these documents. The new provisions at paragraph 6.2.6 and 6.2.7 are premised on Council material being 'neutral and impartial at all times.' This aligns with the requirement in Section 2(1) of the Local Government Act 1986 that '*a local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party*' and the provisions of Section 2(2) which prohibits material which '*promotes or opposes a point of view on a question of political controversy which is identifiable of the view of one political party or another.*' For example, these provisions are why News Releases from the Council reference the name and designation of Portfolio Holders for example but not their political affiliation.

It is difficult to imagine how the communications function of the Council could operate within the parameters of the Local Government Act and the Code of Practice referenced above if it were not neutral and impartial at all times. There has been a recent issue in relation to lapel badges worn by Elected Members which variously express political affiliation and an opinion in relation to the forthcoming referendum. It is imperative that Council publicity material expresses no political affiliation and no opinion on the Referendum and these provisions are intended to put the matter beyond doubt.

The Council Information section on the Council's website contains political affiliation information for each Councillor. This is factual information presented in a balanced way. It is relevant to the public to access since if they wish to speak to a local member on a specific issue they may wish to seek out a member of a specific political affiliation. It is not intended to delete party affiliations from this section of the website.

The Chair invited Councillor McFarlane to explain her reasons for the call-in.

Councillor McFarlane provided some background in that SNP Members had always worn small SNP lapel badges and that there was nothing in the protocol regarding the prohibition of these, however, in recent weeks she had been asked to remove her 'Yes' lapel badge, but not her SNP badge, during a photocall as it was deemed a political statement. Following this incident, she had asked for a legal ruling on the matter and referred to the Local Government Act 1986, attached to the Call-in requisition. She also commented on Section 2.1 and 2.2 of the Protocol and of her understanding of this section which meant that the Council could not promote political parties within publications and stated that she felt that a badge did not do this in any case. Similarly, she also expressed her concerns regarding the suitability of other items of attire such as ties and scarves and whether these would be considered of a political nature.

In relation to paragraph 6.2.3 of the protocol recommending no substitute representation should a local member be unable to attend, Councillor McFarlane asked what difference this made to a photograph if it was a local member or not and did this rule also apply to civic receptions.

Councillor McFarlane also sought clarification as to what evidence was used to put this protocol in place and, if implemented, how did this affect the reputation of the Council.

Arising from discussion, Officers provided further information and clarification in response to the matters raised by Councillor McFarlane and also by Members of the Panel.

In terms of the Protocol, Officers clarified that the purpose of this document, which was not being justified on the basis of the Act, was to provide clarity to Officers as well as apolitical impartiality. In terms of no substitution, it was recognised that this only related to photographs of local issues/events involving local members and that this was also to provide clarity to Officers organising photocalls. Officers commented on the balance of inviting all Elected Members, specific groups of Members or restricting to local Members depending on the type of publicity event taking place. It was noted that, for certain projects based within a locale, wider Council representation might be more appropriate and that Officers would be mindful of this when organising such photocall events.

In terms of Paragraph 6.2.7 of the Protocol and following concerns relating to the use of airbrushing out items considered to compromise impartiality, a discussion took place.

It was noted that this protocol would only apply to the Council and not to any photographs taken by the local press.

Councillor Connolly, seconded by Councillor Hampton, moved that the Panel uphold the decision of the Leadership Panel.

By way of Amendment, Councillor Douglas Campbell, seconded by Councillor Clark, moved that the Council should not adopt the new provisions contained within Paragraphs 6.2.6 and 6.2.7 of the Protocol.

On a vote being taken by a show of hands, two Members voted for the Amendment and six for the Motion, which was accordingly declared to be carried.

The Panel

Decided: following review, that the decision of the Leadership Panel in respect of this matter be confirmed and implemented.

3. **Minutes of previous meeting.**

Decided: to approve the Minutes of the previous meeting of 5th September 2013 (issued) ([link attached](#)) and the Special meeting of 25th September 2013 (issued) ([link attached](#)).

WIDER SCRUTINY PANEL BUSINESS:-

4. **Strategic Risk Management.**

There was submitted a report (issued) ([link attached](#)) of 25th September 2013 by the Head of Corporate Resources providing an update on the reviewed Strategic Risk Register – September 2013 (attached as Appendix 1 of the report) in line with the agreed reporting framework.

The Chair referred to the risk areas contained within the document and invited comments from Members of the Panel. It was suggested that perhaps Officers who owned a risk headline should be in attendance to respond to any matters raised by Members of the Panel. However, it was noted that the Head of Corporate Resources and the Corporate Safety Manager would feedback to Officers for them to respond to any issues raised. For this particular meeting, Officers were in attendance for the three new items to the Risk Register.

In terms of the Welfare Reform Act (SR018), concerns were expressed in relation to the reduction in the funding amount to the Council and, as well as the impact on vulnerable tenants, how would this also impact on working tenants and would they be subjected to rent increases. It was noted that these comments would be fed back to the Cross-Directorate Welfare Reform Working Group.

Comments were made in relation to the lack of one bedroom properties and whether the current housing stock reflected the needs of the local population. The Panel heard that such issues were being addressed via future planning and the Local Housing Strategy. Comments were made as to whether there was scope for McConnell Gardens, Girvan to be reconfigured to meet current housing demands. Also, comments were made regarding reluctance for people to take on three bedroom properties. The potential impact on the housing waiting list was noted.

In terms of financial constraints (SR001), concerns relating to workforce flexibility were expressed and it was noted that some of the headlines were cross-cutting and that this issue was captured at SR008 (Workforce and Capacity Planning).

Clarification was sought in relation to strategic planning (demographics) (SR003) and whether more could be done in conjunction with the private sector to mitigate these risks. Officers provided assurances that flexible working across a wide range of services and agencies within the public/private sector was undertaken as well as being further explored as and where appropriate.

With regards to maintaining the safety, welfare and protection of the public – child and adult protection (SR005), clarification was sought as to whether statistical data and trends presented to the Chief Officers' group were also reported to the Leadership Panel. This matter would be clarified, however, it was noted that multi-agency data sharing formed part of the work of Community Planning and that this information could be requested.

The importance of child protection was recognised and it was noted that the flow of information between agencies was continually under review, constantly challenged and featured as a high priority. Clarification was sought in relation to the recently publicised high levels of children under the influence of alcohol within the NHS Ayrshire and Arran area and it was noted that, as well as being a child protection concern, a multiagency approach in terms of awareness raising, diversionary approaches and early intervention measures would explore the detail of these figures.

In terms of maintaining the safety, welfare and protection of the public – health and safety (SR006), clarification was sought in relation to risk assessments and the Corporate Safety Manager outlined the process being followed in terms of training and refresh training for managers undertaking risk assessments with health and safety awareness forming a part of induction training for employees and PDRs thereafter. It was noted that it was incumbent on Managers to communicate health and safety matters to operatives such as toolbox talks and that processes were regularly reviewed and audited to identify any gaps. It was also recognised that a sensible risk management policy was in place.

In respect of the management of assets (SR007), the timescales attached to valuations and condition surveys were queried and the Head of Corporate Resources outlined the next steps within this process and commented that, following the appointment of new staff, this work would be developed. It was noted that property rationalisation as well as property investment programmes would be part of the process. Comments were made in relation to community facilities and the capacity for co-location and shared costs.

Councillor Galbraith left the meeting at this point in time.

Workforce and capacity planning (SR008) were discussed. It was noted that a flexible workforce was essential in times of financial constraint and that in order to reach this position, cultural change was needed as well as a breakdown of silos. The impact of frequent changes in the organisational structure was also discussed. In response, the Head of Employee and Customer Services commented on organisational planning and succession planning which should mitigate such risks. Clarification was sought in respect of sick leave provision and it was noted that this was being reviewed.

Councillor Galbraith re-joined the meeting during the above discussion.

In terms of public relations (SR010), comments were made in relation to the communications strategy as well as community engagement processes. The role of the local media was also discussed and it was recognised that the Council had no control over the material featured in local papers although press releases were provided. It was noted that a proactive approach was in operation with the media.

It was noted that, in terms of performance management (SR012), the Leadership Panel had considered that a robust process was in place and that this was work in progress.

A full discussion took place in relation to new risk workforce attendance (SR020). Clarification was sought as to whether there could be a mechanism whereby employees with good attendance levels were recognised. Also, did the Council convey to the workforce their value as this could improve attendance levels. The Head of Employee and Customer Services commented that all current policies had been reviewed and discussed with trade unions and agreed that it would be beneficial to also include options to recognise good attendance in future deliberations. It was noted that managers were responsible for managing absence.

In terms of strategic planning (priorities) (SR013), comments were made that, since the *'How Good is Our Council'* sessions had low attendance rates, was the output from this exercise the best information to draw upon. It was noted that this was only one element of evaluation from a wide range of information utilised for benchmarking.

In relation to the new headline of integration of Health and Social Care (SR019), it was noted that Officers worked closely with the other Ayrshire authorities and NHS Ayrshire and Arran in terms of how these arrangements fitted into this Council's risk management process. The role of the Transition Board and the ongoing work at Directorate level was also recognised and it was noted that further information would be reported to Members in due course.

Clarification was sought in relation to the new headline SR021 relating to the public services network – code of connection compliance and the process in place to inform Members of the accreditation status and any subsequent impact and the Panel heard that the Leadership Panel should receive an update on this matter at its next meeting.

In terms of environmental targets (SR017), it was noted that the Council was currently meeting its climate change duties. Clarification was sought and provided as to whether discussions had taken place with local communities regarding biomass activity.

The Panel

Decided:

- (1) to agree the twenty key risks and endorse the work currently being undertaken or proposed by risk owners to mitigate these risks; and
- (2) to agree that a report on the management of Strategic Risk be submitted to the Leadership Panel of 5th November 2013 for endorsement.

The meeting ended at 12.10 p.m.