

# WEST DUNBARTONSHIRE COUNCIL

## Report by the Executive Director of Corporate Services

Council : 28 January 2009

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**Subject: Review of Parts 1 and 2 Standing Orders**

### **1. Purpose**

- 1.1 This report asks Council to approve changes to parts 1 and 2 of the Standing Orders which relate to the Standing Orders for meetings of Council, Committees and other bodies. A seminar for Members on the proposed options and issues was held on 5 December 2008. This report groups the possible changes under 3 categories being those that received unanimous agreement at the seminar, those that received unanimous disagreement at the seminar and those where there were differing views. A separate report deals with the timing and length of Council meetings.

It may be difficult to frame a single motion which deals with all of the proposed changes. Accordingly it is suggested that if there is still broad consensus at Council regarding the proposals which the seminar found to be acceptable or unacceptable, then this could be the subject of one vote. This would allow the less controversial items to be dealt with. Thereafter there could be separate motions and votes on those areas where there was no agreement at the seminar.

### **2. Background**

- 2.1 The current Standing Orders were originally approved by Council on 29 August 2007 for a six month period. Changes were proposed in a report to Council on 27 February 2008 but these were not approved. A report was submitted to Council on 29 October 2008 and Council agreed to remit this to a seminar for Members followed by a report back to Council. The seminar for Members was held on 5 December 2008.
- 2.2 While the present Standing Orders are robust and function effectively, various issues have arisen which have highlighted gaps in the Standing Orders. This report attempts to deal with such issues, in the interests of achieving certainty. The report also suggests amendments to the Standing Orders which bring them into line with the Councillor's Code of Conduct and best governance practice elsewhere. However, it is appreciated that Members and officers are familiar with the workings of the present Standing Orders and accordingly an attempt has been made to resist suggesting changes to the core provisions, unless necessary.

- 2.3 The report only deals with Parts 1 and 2 of the Standing Orders. In due course it is proposed to bring to Council a further review relating to Part 3 (delegated powers), Part 4 (contracts) and the financial regulations. It is also proposed to submit a report to the Planning Committee regarding procedures for deputations before that Committee and in due course that may result in a further report to Council.

### **3. Main Issues**

- 3.1 The possible changes are listed as follows:-

Part 1 – changes where there was a unanimous agreement by the seminar, or unanimous agreement subject to certain changes.

Part 2 – changes where the seminar unanimously disagreed with the change.

Part 3 – possible changes where there were differing views on the changes, or where the seminar disagreed with the change but felt that the issues should be further debated by Council.

- 3.2 Part 1 – Changes agreed by the seminar:-

#### 3.2.1 Heading

It is proposed that Parts 1 and 2 of the Standing Orders should be headed up “Standing Orders for Meetings”. This makes it clear that the Standing Orders relate to meetings and avoids the Standing Orders being misapplied to other situations.

#### 3.2.2 Standing Order 3 (a) – Special Meetings

This Standing Order relates to the power of the Convener to convene a special meeting. This does not cover the situation if the Office of Convener or Vice Convener is vacant. Accordingly to the end of Standing Order 3 (a) should be added the following:-

“If the office of Convener is vacant, or if the Convener is unable to act for any reason, the Depute-Convener of the Council may at any time call such a meeting. If the Offices of Convener and Depute Convener are both vacant or if neither the Convener nor the Depute Convener are able to act for any reason the Leader of the Council may call such a meeting.”

#### 3.2.3 Standing Order 5 – Quorum

This Standing Order does not deal with the situation where no Members of the Council attend and no Convener is appointed to chair the

meeting. Nor does it deal with the issue of what happens to the business of a meeting which is inquorate. This was of course the situation at the Council meeting on 24 September. To avoid any future uncertainty the following is proposed:-

“5 (d) If the Convener and the Depute Convener are absent from a Council meeting and the Council fail to elect another Member to chair that meeting, the meeting will not be convened and no minutes will be taken of the meeting.

5 (e) The consideration of all business which is on the agenda of a meeting which is not convened or inquorate or which has not been completed before the meeting is brought to an end shall be postponed to the next meeting of the Council, whether ordinary or special”

#### 3.2.4 Standing Order 6 – Order of Business for the Ordinary Meeting of the Council

The present Standing Order omits the initial formal business and it is proposed that the following is inserted before approval of the minutes:-

“The chair shall be taken in accordance with the provisions of these Standing Orders.

The sederunt shall be taken.

Any apologies shall be tendered.

Any declaration of interest shall be tendered

Any declaration of whip shall be declared.”

The seminar agreed this subject to 2 changes. Firstly it took the view that as the 2 larger political groups invariably whipped decisions (apart from regulatory decisions), that there was no need to specifically declare the use of the Whip. Secondly the seminar agreed to a new Standing Order providing that Declarations of Interest be made at the start of meetings (see paragraph 3.2.15). Paragraph 5.4.14 of the Councillor’s Code of Conduct states that a Declaration of Interest must be made as soon as practicable at a meeting where that interest arises. Accordingly the Council has little discretion in this particular matter.

#### 3.2.5 Standing Order 8 – Notices of Motion

It is proposed that the following provision is added to Standing Order 8 in relation to motions:-

Motions contravening legislation etc

“(f) If notice is given of any motion that, in the opinion of the Monitoring Officer, if agreed is likely to give rise to a contravention by the Council of any enactment or rule of law or of any code of practice made or approved by or under any enactment, the Monitoring Officer shall immediately submit such notice of motion to the Convener and it shall not be accepted and placed on the agenda without his/her sanction. In the event of non-acceptance the Monitoring Officer shall so inform the Member who submitted the notice of motion.”

At the seminar the Head of LARS confirmed that the wording was taken from the Local Government Act 1989 which gave powers to the Monitoring Officer to submit a report to Council in the event of any such contravention arising. The change was intended to avoid the need for such a report to be made, and would only be used in the case of clear illegality. It would also apply to motions made at Council, albeit that it was hoped that where there was any doubt about the legality of a proposal the Head of LARS would have been previously consulted.

### 3.2.6 Questions to Leader of the Opposition

Under Standing Order 9 (b) any Member may put a question to any office holder at any meeting. Strictly speaking the Leader of the Opposition is an office holder. If it is intended that the Leader of the Opposition should receive questions, then it is recommended that Standing Order 9 (a) and (b) be revised to include reference to the Leader of the Opposition to avoid any doubt over this matter.

### 3.2.7 Standing Order 9(b) – Asking Questions.

Standing Order 15 provides that it is competent for any Member of the Council to move a motion, including motions which have been submitted by other Members. The present Standing Orders do not cover the issue of whether questions lodged in advance under Standing Order 9 (b) can be asked by other Members. For the sake of consistency it is suggested that once a question has been lodged under Standing Order 9 (b) any Member will be entitled to ask it at Council.

### 3.2.8 Typo Correction

The present Standing Order 10 contains a typographical error referring to Local Government (Scotland) 1973 Act, rather than the Local Government (Scotland) Act 1973. The opportunity should also be taken to correct this.

### 3.2.9 Disorder by Public

Neither this Standing Order, Standing Order 12 – (Suspension of Members) or Standing Order 13 - (Adjournment) expressly covers the

issue of disorder by Members of the Public. It is proposed that a further paragraph is added as follows:-

“10 (b) - Every meeting of the Council shall be open to the Public but these provisions shall be without prejudice to the Council’s powers of exclusion in order to suppress or prevent disorderly conduct or other misbehavior at a meeting. The Council may exclude or reject from a meeting a Member or Members of the Press and Public whose presence or conduct is impeding or, in the opinion of the Convener is likely to impede the work or proceedings of the Council.”

The seminar agreed this subject to the amendment of the last sentence of the proposed Standing Order to:-

“The Council may exclude or reject from a meeting a Member or Members of the press and public whose conduct in impeding the work or proceedings of the Council”

### 3.2.10 Standing Order 11 – Powers and Duties of Convener and Vice Convener

No provision in Standing Orders

Standing Order 11 (g) states that the Convener shall:-

“determine subject to the agreement of the Council, by majority of Members present, all matters of procedure for which no provision is made within the Standing Orders”.

This is slightly misleading insofar as it refers to such matters being responsibility of both the Convener and the Council. It is proposed that this provision is deleted. The result would be that the Convener is still responsible under 11 (h) for determining issues which are presently within the Convener’s remit in terms of Standing Orders. In relation to matters where the Convener presently has no remit under Standing Orders, these would require the agreement of Council.

### 3.2.11 Standing Order 14 – Deputations

It is proposed to amend this Standing Order to provide that a deputation relating to matters which fall within the terms of reference to a Committee would stand as referred to that Committee.

It would be good practice to develop a bespoke deputations procedure relating to the Planning Committee and a report will be submitted to that Committee in due course seeking their views. Depending on the decision of the Committee, this may have to come back to Council.

### 3.2.12 Standing Order 15 – Motions and Amendments

The general legal principle is that motions are only competent if they arise directly out of an item of business or if 7 days notice has been given and the motion appears on the agenda. The general principle is one of fair notice, namely that a Member who is considering whether to attend the meeting must be able to predict the business and decisions which can arise. There is a minor inconsistency between Standing Order 8 (a) and 15 (i) insofar as 8 (a) refers to motions being incompetent except if they directly arise out of a matter regularly before the meeting. 15 (i) does not include the word “directly” and it is proposed to insert this for the sake of consistency, and to bring Standing Order into line with the general law.

### 3.2.13 Standing Order 16 – Alteration, Deletion and Rescission of Decisions of Council

#### Illegal Decisions

There is a general legal principle that suspension of Standing Orders is not required where a previous decision is illegal or ultra vires (outwith the council’s powers). Advice by officers to this effect has been questioned in the past and it is proposed that certainty is introduced by inserting at the beginning of Standing Order 16 the words “Except where required by reason of illegality...”.

The Head of LARS confirmed to the seminar that this would only be used on his advice where there was clear illegality and not where the position was other than black and white.

### 3.2.14 Standing Order 27 – Approval and Signing of Minutes

Strictly speaking, the approval of minutes serves solely to consider the accuracy of the minutes and the occasion is not one for resumption of debate on items recorded in the minutes. Thus the inclusion on an agenda of an item to the effect of “matters arising on the minutes” is bad practice and of doubtful legality. This is because in most cases the Committee or Council has powers to implement its decision and the decision may already have been implemented prior to the accuracy of the minutes being confirmed. However it is noted that the practice in West Dunbartonshire Council is often to request factual information on the implementation of a decision. The danger is that this reopens debate and introduces a new matter. Any such new matter should, strictly speaking, require 7 days notice of a motion or require to be accepted by the Convener by virtue of special circumstances and urgency. To regularise the present situation the following additional Standing Order is proposed:-

27 (c) – No discussion shall take place upon the minutes, except upon their accuracy and any question on their accuracy shall be raised by motion. Members will be entitled to ask the Convener to provide an update on the implementation progress of any decision taken by a

Committee with delegated powers. However no Member shall be entitled to propose a motion arising therefrom except if 7 days notice thereof has been given in terms of Standing Order 8.

### 3.2.15 Standing Order 30 – Working Groups

Standing Order 30 does not set any timetable for issue of Committee papers for Working Groups. The view of the seminar was that these should be issued either 2 clear days or 48 hours in advance of the Working Group (the difference being that clear days does not include a Sunday).

### 3.2.16 New Standing Order – Declaration of Interest

In terms of the code of conduct Members are required to declare a financial or non financial interest. It would be helpful if this is also reflected in the Standing Orders and the following new Standing Order is proposed:-

#### “Declaration of Interest

If any Member of the Council has a financial or non financial interest in any contract or any other matter as defined by section 5 of the Code of Conduct for Councillors and is present at any meeting at which the matter is to be considered, he/she must, as soon as practical, after the meeting starts, disclose that he/she has an interest and the nature of that interest and that he/she is precluded from taking part in consideration of that matter. In the case of a financial interest the Member must leave the meeting whilst that matter is under discussion. In the case of a non-financial interest a Member must leave the meeting unless in the particular circumstances of the item of business, and knowing all the relevant facts, a Member of the Public acting reasonably would not consider that the Member would be influenced by the interest in their role as a Councillor.

Where a Member declares an interest and leaves the meeting in terms of this Standing Order the facts will be recorded in the minutes of the meeting.

All Members of the Council must observe the Code of Conduct for Councillors and any guidance issued by the Standards Commission for Scotland.”

### 3.2.17 New Standing Order – Confidential Information

The Code of Conduct for Councillors also contains a prohibition on disclosure by Councillors of confidential information. It would also be helpful, for the sake of clarity and good governance if this was incorporated in the Standing Orders. Again this appears in the

Standing Orders of a number of other Councils. The following is proposed:-

“Disclosure of information

No Member or Officer shall disclose to any person any information which falls into the following categories:-

- Confidential information within the meaning of Section 15 A(2) of the Local Government (Scotland) Act 1973.
- The full or any part of any document marked “not for publication by virtue of the appropriate paragraph of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.
- Any information regarding proceedings of the Council from which the Public have been excluded unless or until disclosure has been authorised by the Council or the information has been made available to the Press or to the Public under Section 2 of the Local Government (Access to Information) Act 1985.

Without prejudice to the foregoing no Member shall use or disclose to any person any confidential and/or exempt information coming to his/her knowledge by virtue of his/her office as a Member where such disclosure would be to the advantage of the Member or of anyone known to him/her or which would be to the disadvantage of the Council.”

### 3.2.18 New Standing Order - Recording of Proceedings

As there have been recent attempts to take unsanctioned photographs of Council meetings by Members of the Public/Press it would be worthwhile to include a Standing Order to regulate the position. A similar Standing Order from other Councils would be in the following terms:-

“Recording of Proceedings

No sound, film, video tape, digital or photographic recording of the proceedings of any meeting shall be made without the prior approval of the Council.”

The seminar suggested that the word “written” should be inserted between “prior” and “approval” in the second line of the proposed Standing Order.

## 3.3 Part 2 – those changes where there was unanimous disagreement by Members at the seminar.

### 3.3.1 Standing Order 8 – Notices of Motion

It had been proposed:-

## Relevancy of Motions

“(d) Every motion shall be relevant to some matter in relation to which the authority has- functions, or which affect the area of the authority or part of it, or the inhabitants of that area, or some of them.”

Similarly it had been suggested that questions should also be relevant. Again the seminar Members were not keen on this change.

3.3.2 It had also been suggested that when the party Whip had been applied that this should be declared at the commencement of the meeting. The view of the seminar was that in circumstances where the 2 larger political groups invariably whipped decisions (except where these related to regulatory matters) there was little point in repeatedly declaring use of the Whip.

3.4 Part 3 – possible changes where there were differing views at the seminar or where the seminar was against the change but suggested that the conflicting arguments be put to Council for a decision.

### 3.4.1 Reference of Motions to Appropriate Committee

It had been proposed that Standing Order 8 should be amended to provide that motions should be referred to the appropriate Committee. The proposed amendment was as follows:-

“(e) Where a notice of motion has been given for any meeting and that motion is in the terms of reference of any Committee of the authority, the motion shall be deemed to have been referred by that meeting to the next meeting of the Committee or Committees within whose terms of reference it falls. If any question arises as to which Committee the motion is to be referred, it shall be determined by the Convener. Where a motion has been referred, or is deemed to have been referred, to a meeting of a Committee, that Committee shall consider it at their next ordinary meeting.”

While those present at the seminar were not in favour of the change their view was that this matter should be considered by Council. The advantages of such a change are:-

- If certain functions have been delegated to a Committee it is logical that the Committee, rather than the Council should deal with matters relating to those functions.
- It avoids the risk of Members trying to avoid a particular Committee by putting the matter to Council.
- To do so would shorten the Council meeting.

The disadvantage is that this change would debar Members who did not serve on a particular Committee from being involved in determination of any issues relating to the work of that Committee.

#### 3.4.2 Questions Contravening Legislation

A change had been proposed, similar to that relating to motions contravening legislation detailed in paragraph 3.2.5. Members at the seminar had made the point that as no motions could arise out of questions that there was no potential for the Council to come to a decision contrary to law. Accordingly the only possible legal issues which could arise would be if the question was defamatory or in breach of data protection principles. Would the Council wish Standing Orders to be amended to provide for this eventuality?

#### 3.4.3 Standing Order 9 (c) – Questions of Order

It is proposed that clarity be provided on the requirements for a question of order. The following revisal to Standing Order 9 (c) is proposed:-

“A question of order shall relate only to an alleged breach of a specified Standing Order and the way in which the Member raising it considers that it has been broken. Any Member indicating a desire to raise a question of order shall state at the outset the Standing Order considered to be infringed.”

At the seminar there were differing views on the merits of this change. Some Members thought that it would be helpful for Members to identify the alleged breach of Standing Orders and the way in which it had been broken. This would assist the Convener to properly consider the issue and avoid issues being raised which were not really questions of order. However concern was expressed about the last sentence of the proposal and the need for Members to quote the exact Standing Order which was being infringed. Accordingly the recommendation would be that only the first sentence of the proposed Standing Order should be inserted.

#### 3.4.4 Standing Order 10 – Admission of Press and Public

##### Timetable for Committee Papers

The Local Government (Scotland) Act 1973 requires papers to be available not less than 3 clear days before the date of each meeting. Concern has been expressed by several Members that this can be insufficient to allow consideration of papers by their political group. Members are asked to consider when they would wish reports to be available before the date of the meeting. If papers were to be available on greater notice than at present then the timescales for motions,

questions and deputations would also have to be extended to accommodate this.

The view of the seminar was that the Committee papers should be made available 9 clear days in advance of the meeting. Thus for a Council meeting on say Wednesday 29, the papers would be available on Friday 17. This would allow the papers to be considered by political groups and given adequate opportunity for Members to clarify reports and possible motions with officers in advance of a further political group meeting prior to the meeting. It was appreciated that the timetable for lodging motions and questions would need to be extended to accommodate this, the proposal being that these should require 11 clear days notice (being the minimum necessary to ensure that the motion or question appeared on the agenda). While these proposals have much to commend them they would mean that some last minute reports might miss the agenda. Secondly, if a Council meeting asked for a further report to the next Council the new deadline would mean that there was only a short period of time between the Council meeting and the report deadline for the next Council meeting. There might not be much time to carry out further consultations or work in order to properly report back.

### 3.4.5 Standing Order 16 – Alteration, Deletion and Rescission of Decisions of Council

#### Removal of Provost or Depute Provost

Standing Order 1 (b) provides that the Provost and Depute Provost will remain in office until the next ordinary election and can only be removed on a two-thirds majority. However, this Standing Order can be amended by a simple majority, effectively meaning that the Provost and Depute Provost can be removed by a two stage process each requiring a simple majority. It is also appreciated that in light of the Provost's casting vote, a change of administration often involves a change in Provost. This notwithstanding there is merit in attempting, in the interests of certainty and stability, to limit the number of occasions on which the Civic Head of the Council can be changed. Accordingly Members are asked to consider an amendment to Standing Order 16 which would provide that:-

“No motion to alter, delete or rescind either this Standing Order or Standing Order 1 (b) hereof will be competent within 1 year from the date of the adoption of that resolution unless a decision is made prior to consideration of the matter to suspend this Standing Order in terms of Standing Order 24”.

The effect of this is to retain the Council's ability to replace the Provost and Depute Provost at any time on two-thirds majority but limiting the removal by simple majority to yearly intervals.

There were conflicting views at the seminar on this proposal. Some Members had thought that the intention behind the provision requiring a two-thirds majority for removal of the Provost and Depute Provost had been to avoid regular changes of Provost and Depute Provost. As these Standing Orders were not robust enough to achieve this purpose some other way should be found to avoid regular replacements of the Provost and Depute Provost. The contrary view was that the existing Standing Orders were simply intended to provide a 2 step process for removal of the Provost and Depute Provost and there was no good reason why this should now be changed to further protect the Provost and Depute Provost from removal.

#### 3.4.6 Standing Order 26 – Proceedings of Committees and Sub Committees.

##### Rescheduling of Meetings

26 (c) provides that ordinary meetings of Committees or sub Committees will commence at such times as may be determined by the Council and will meet according to a timetable determined by Council from time to time. A number of issues have recently arisen in relation to cancellation of Committee and Council meetings on strike days. The present position is that in relation to ordinary Council meetings, the basic legal position is that these cannot be cancelled except by the Council itself. There appears to be no way round this and it would require a special meeting to be convened to cancel a subsequent ordinary meeting. In relation to special meetings, the timing of these is determined by the Convener and the Convener can change the date of these. In relation to Committees, the present position is that these can only be cancelled or rearranged by the Council. The issue is whether the Council would wish to amend Standing Order 26 (c) to provide that the Convener of the Committee or sub-Committee would have power to rearrange the date, time and place of Committees and sub-Committees in cases of urgency, subject to obtaining the agreement of the Council Leader and the Leader of the Opposition.

The view of the seminar was that Standing Order 26 (c) should not be changed to allow the Convenor of a Committee to rearrange the date, time and the place of the Committee in cases of urgency, subject to obtaining the agreement of the Council Leader and the Leader of the Opposition. However, the seminar was of the view that this particular issue should be further considered by the Council.

#### 3.4.7 Substitution of Members

The report to Council on 29 October 2008 dealt at paragraph 3.13.3 with the temporary substitution of Members. Paragraph 2.1 of the report to the seminar of 5 December 2008 covered the issue of permanent substitution of Members of Committees by political groups. The position on each is as follows:-

## Temporary Substitution of Members

26 (i) – This provides that there will be no substitution of Members of Committees and sub-Committees unless specific provision is made for the substitution of Members of a particular Committee or sub Committee within the Standing Orders or any relevant minute of agreement, constitution or similar document. The Standing Order needs to be changed if substitutes are to be permitted. This is generally achieved in one of two ways; either by nominating a prescribed list of substitute Members for each Committee or by allowing individual Members to nominate ad-hoc substitutes, subject to advance notice. While the latter provides more flexibility to political groups, the former has the advantage that the substitute Members can build up some knowledge and expertise in the subject area of their particular Committee. A revised Standing Order has not been drafted but Members are asked to consider the following options:-

- a) Retain Standing Order 26 (i) which means no substitute Members could attend Committees; or
- b) Nominate a prescribed list of substitute Members for each Committee; or
- c) Substitute Members are permitted subject to 7 days written notice being given to the Head of Legal Administrative and Regulatory Services. This would enable the identity of the substitute Member to be shown on the Committee papers which would be issued.

The general view of the seminar was that no provision for temporary substitution of Committee Members should be introduced and that temporary substitutes would not be allowed.

### 3.4.8 Replacement or Permanent Substitution of Members of Committees or Working Groups

The Standing Orders presently provide as follows:-

*Standing Order 1 - "The Council may elect the Committees, Convenors and service spokespersons and appoint representatives to composite and outside bodies."*

Standing Order 26(i) provides that:-

*"There will be no substitution of Members of Committees and Sub Committees unless specific provision is made for the substitution of Members of a particular Committee or Sub Committee within these Standing Orders or in any relevant minute of agreement, constitution or similar document."*

To date changes in membership have been allowed for the sake of administrative convenience, where the Member being substituted, the new Member and the nominating political group are in agreement.

What happens if the Member being substituted while, either temporarily or permanently does not wish to be substituted? Can a political group which has X Members on a Committee replace its own nominated Members, or does this need a Council decision? Given the terms of Standing Orders 1 and 26(i) it is considered that Council approval would be required to any such change. This is particularly so in circumstances where a Member might not wish to be substituted, and where such substitution could have the effect of removing the Member from all Committees bar the Council. Existing case law also supports this position namely the cases of R v Brent LBC ex parte Gladbaum and Wood 1989, and R v Portsmouth City Council ex parte Gregory 1990.

The Gladbaum case makes it clear that only the Council has the power to appoint and remove Members from a Committee and that this power cannot be delegated. Indeed the practice of allowing changes without Council agreement where everyone agrees with the changes also falls foul of this rule. Sections 13 to 17 of the Local Government Housing Act 1989 was introduced to remove this restriction and to allow political groups to nominate Members. While this legislation has been implemented in England and Wales it has not been implemented in Scotland. This leaves the present legal position as stated in the Gladbaum case.

At the seminar there were differing views on the applicability of the Gladbaum case to Scotland and as to whether political groups should be entitled to remove Members nominated by them without Council agreement. The view of the Head of LARS is that the Gladbaum case is applicable and that it is not legally competent for the Council to amend Standing Orders to allow political groups to replace Members appointed by them. This applies even if the incoming and outgoing Members are happy with the change. It is appreciated that this will differ from previous Council practice which, while administratively convenient, was legally incorrect.

#### 3.4.9 Variation and Revocation of Standing Orders

The report to Council on 29 October had suggested that it would be worthwhile to specifically state the majority required to vary or revoke Standing Orders. A similar Standing Order from other Councils would be in the following terms:-

“Variation and Revocation of Standing Orders

Any motion to vary or revoke these Standing Orders will when voted on, be approved by a majority of the Members present and voting.”

It was unanimously agreed at the seminar that it was unnecessary to include this in Standing Orders. Since the seminar a suggestion has been received from a Member that once agreed, Standing Orders should not be changed unless a two-thirds majority agreed to any change. Alternatively Standing Orders should run for a specified duration, ie 2 years.

Paragraph 8 for schedule 7 of the Local Government (Scotland) Act 1973 provides that:-

“subject to the provisions of this act, a Council may make Standing Orders for the regulation of their proceedings and business and may vary or revoke any such orders.”

As Standing Orders, whether discretionary or mandatory are made by simple resolution of the Council so to is variation or revocation by simple resolution. Thus the only means of achieving this aim would be to amend Standing Order 16 to provide that:-

“no motion to alter, delete or rescind any provision of Standing Orders will be competent within 2 years from the date of adoption of that Standing Order unless a decision is made prior to consideration of the matter to suspend this Standing Order in terms of Standing Order 24.”

This would meant that Standing orders could be changed at any time on two-thirds majority, or even 2 years without such majority.

#### 3.4.10 Deputations

Since the seminar a further issue has been raised by a Member concerning the impact of the deputations procedure on Social Work complaints. In terms of statute, the Council requires to appoint an independent Social Work Complaints Committee to deal with Social Work complaints. There is a specific Council procedure which details how Social Work complaints are dealt with. The Social Work Complaints Sub-Committee receives evidence and submissions from parties and invites comments from parties on their draft decision. Thereafter the decision is reported to the Social Work Committee. The role of the Social Work Committee is to consider the findings of the Social Work Complaints Sub-Committee, consider the recommendations of that Sub-Committee and decide whether they wish to accept the recommendations, or take other action. The Social Work Committee should not rehear the evidence or reconsider the facts. The difficulty is that the deputations procedure in Standing Order 14 also applies to Committees and Sub-Committees by virtue of paragraph 26 (a) of the Standing Orders. This means that a party can make a request a deputation to attend a Social Work Committee meeting to attempt to rerun evidence before the Complaints Sub-Committee. This has given rise to difficulty in a recent case.

The suggestion by the Member is that Standing Order 14 should be amended to provide that deputations should only go forward to Committee for consideration when it is relevant to the business and does not attempt to circumvent a defined procedure. The situation at present is that not all deputations are relevant to the business on the agenda. However it is agreed that it would be beneficial to amend Standing Order 14 to avoid parties have two bites at the cherry. The following addition to Standing Order 14 (a) is suggested:-

“no deputation will be received by the Council in relation to any matter which has previously the subject of a deputation or hearing within the previous 2 years.”

#### **4. Personnel Issues**

There are no personnel issues.

#### **5. Financial Implications**

There are no financial implications.

#### **6. Risk Analysis**

Many of the changes reflect the introduction of the Councillors Code of Conduct and other legal requirements and bring the Standing Orders up to date with good corporate governance, as reflected in the Standing Orders of other Councils. It is important that the Council keeps its key corporate governance documents regularly reviewed and failure to do so might result in adverse criticism from Audit Scotland.

#### **7. Conclusions**

The Council is required to approve Standing Orders and regulate its procedures. The Council is being asked to approve variations to Standing Orders which update the existing Standing Orders.

#### **8. Recommendations**

The recommendations are:-

- 1 That Council should approve the changes to Parts 1 and 2 of Standing Orders detailed in Part 1 (Section 3.2) of this report.
- 2 That Council should not agree the changes to Parts 1 and 2 of Standing Orders detailed at Part 2 (Section 3.3) of this report.

- 3 That Council should consider the possible changes to Parts 1 and 2 of Standing Orders detailed in Part 3 (Section 3.4) of this report. It may be simpler from a procedural point of view if there is a separate motion and vote on each item in this section.
- 4 That once a decision and the changes has been made it is recommended that the Head of Legal, Administrative and Regulatory Services be instructed to amend the Standing Orders in light of the Councils' decision subject to the Leader of the Council and the Leader of the Opposition agreeing the accuracy of the wording of the changes, the new Standing Orders would take effect from the March 2008 Ordinary Council Meeting.
- 5 To note that a further review of Part 3 – Scheme of Delegation and Part 4 – Contracts and the Financial Regulations will be submitted in due course to Council.

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**Joyce White**  
**Executive Director of Corporate Services**

**Person to Contact:** Andrew A Fraser, Head of Legal, Administrative and Regulatory Services, Council Offices, Garshake Road, Dumbarton, G82 3PU. Telephone 01389 737800  
e-mail: [andrew.fraser@west-dunbarton.gov.uk](mailto:andrew.fraser@west-dunbarton.gov.uk)

**Appendices:** None

**Background Papers:** Report to West Dunbartonshire Council of 29/10/2008 on Review of Parts 1 and 2 Standing Orders.

Report to seminar of 5 December 2008.

**Wards Affected:** All