

Committee Best Practice Guidance

December 2023



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Chapter One - Structure of Local Decision Making

Key Acts

- 1.1. There are a large amount of legislation that guides and determines how the Council operates and makes decisions and this chapter does not try to cover every piece of legislation. What this chapter concerns itself with are the key Acts which guide the Council's democratic processes and governance and, in many ways, its purpose.
- 1.2. Local authorities are creatures of statute and the basis for local government in Scotland and how it operates is outlined in the Local Government (Scotland) Act 1973. The Local Government (Access to Information) Act 1985 is incorporated into the 1973 Act and the Local Government etc (Scotland) Act 1994 is the Act which created the current local authorities. However, in the main the 1973 Act is the bedrock for the Council and its democratic functions.
- 1.3. In addition to the Acts outlined above there is also the Local Government and Housing Act 1989 and the Local Government in Scotland Act 2003. The sections of these Acts that impact how the Council operates are more minor, but still important.

1973 Act – Committees

- 1.4. The 1973 Act outlines how the Council can make decisions and, in a couple of key sections, creates the committee system that is used in different formats across Councils.
- 1.5. In section 56 it details that Councils can make decisions either by a committee or sub-committee, an officer of the local authority or another local authority in Scotland. This means that individual councillors cannot exercise decision making powers and partnerships with other bodies (who are not local authorities in Scotland) also require a different decision making model or separate legislation (e.g. Integration Joint Boards).
- 1.6. Section 57 of the Act relates to the appointment of committees, and allows the Council to appoint committees, sub-committees, joint committees (with other local authorities) and advisory committees (non decision-making). This section also allows Councils to have non-councillors as members of its committees although it limits the Council to having at least 2/3rds of the membership as elected members in its committees (but not sub-committees). However, Section 57 also provides that a committee that

controls or regulates the finance of the local authority has to be made up of all elected members. The City of Edinburgh Council takes a broad interpretation of this to mean if a committee has authority to spend the money of the authority then this applies and not just to, for example, the Finance and Resources Committee.

- 1.7. S62 allows Councils to create Standing Orders and Schedule 7 of the Act stipulates some rules that must be incorporated into Standing Orders.
- 1.8. Section 50 and Schedule 7A are the insertions from the Local Government (Access to Information) Act 1985 and require Council meetings to be in public, detail the notice needed for Council meetings and when items can be considered in private. This will be covered in more detail later in the document.

Other Acts

- 1.9. The Local Government and Housing Act 1989 requires that Council create the Head of Paid Service and Monitoring Officer roles and also outlines what type of role will be designated politically restricted. The Act also requires committees to be based on the political balance of the Council, but this section has not been brought into force in Scotland.
- 1.10. The Local Government etc (Scotland) Act 1994 creates the current local authorities.
- 1.11. The Local Government in Scotland Act 2003 includes the duty to secure best value, but also importantly widened the Council's powers to include doing anything which it considers would promote or improve the wellbeing of the area and/or its people. This significantly increased the Council's power to take action which traditionally would have been seen to be ultra vires and reflects the strategic leadership role that local authorities have.

Chapter Two - Committee Structure

Political Governance Arrangements

- 1.12. The Council currently operates an executive committee structure (see figure 1.1) which consists of six executive committees which are responsible for policy and financial decision making and scrutiny within their designated areas of responsibility. These executive committees are Policy and Sustainability; Culture and Communities; Education, Children and Families; Finance and Resources; Housing, Homelessness and Fair Work; and Transport and Environment.
- 1.13. The Governance, Risk and Best Value Committee is responsible for seeking assurance over the adequacy of governance and risk management frameworks and the internal control environment. It also scrutinises the Council's financial and non-financial performance, approves and monitors progress against the internal audit risk-based plan and monitors performance of the internal audit service.
- 1.14. The Council also operates a range of other committees, some of which are quasi-judicial, such as the Development Management Sub-Committee and the Licensing Sub-Committee, which consider individual applications.

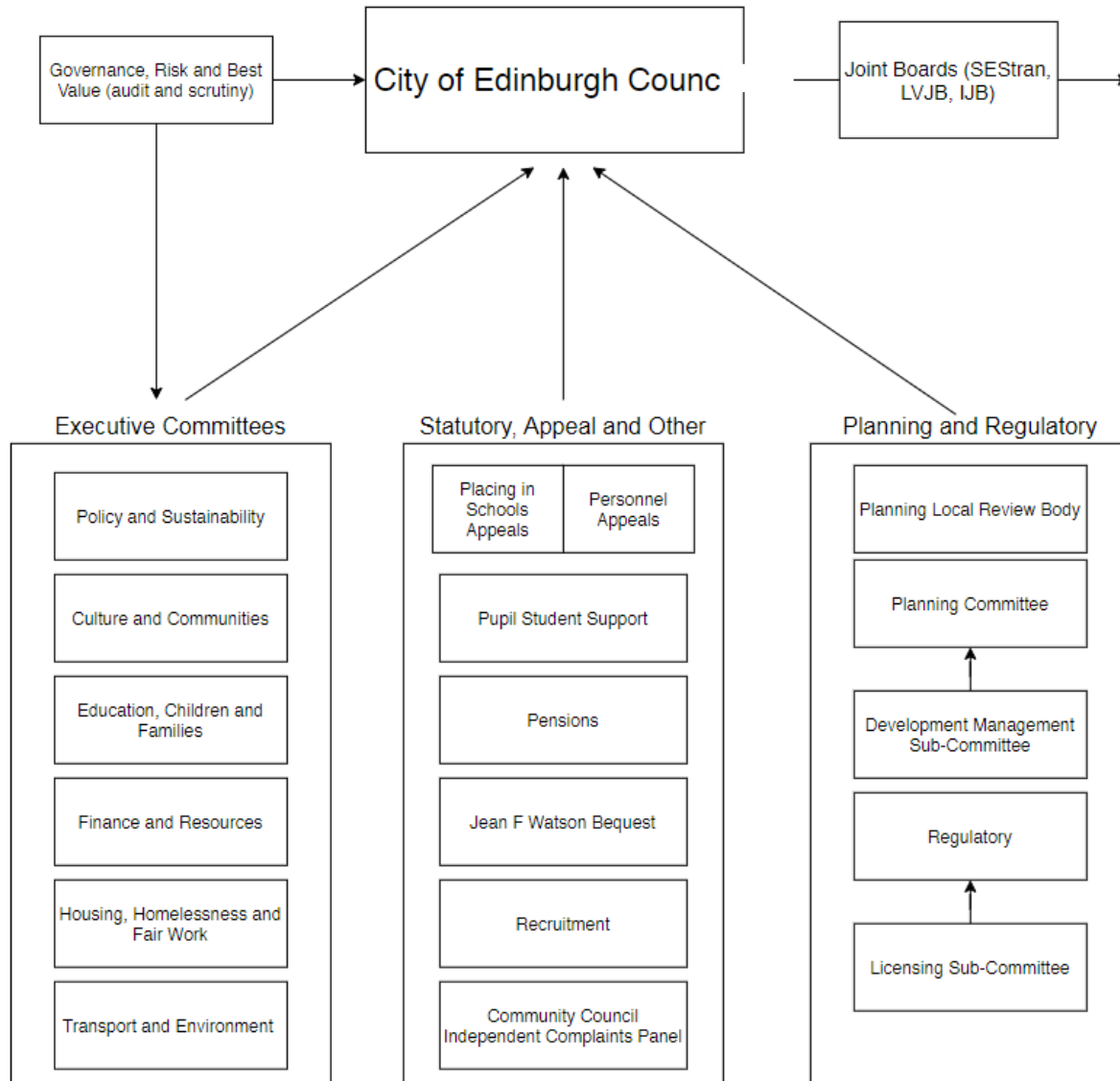
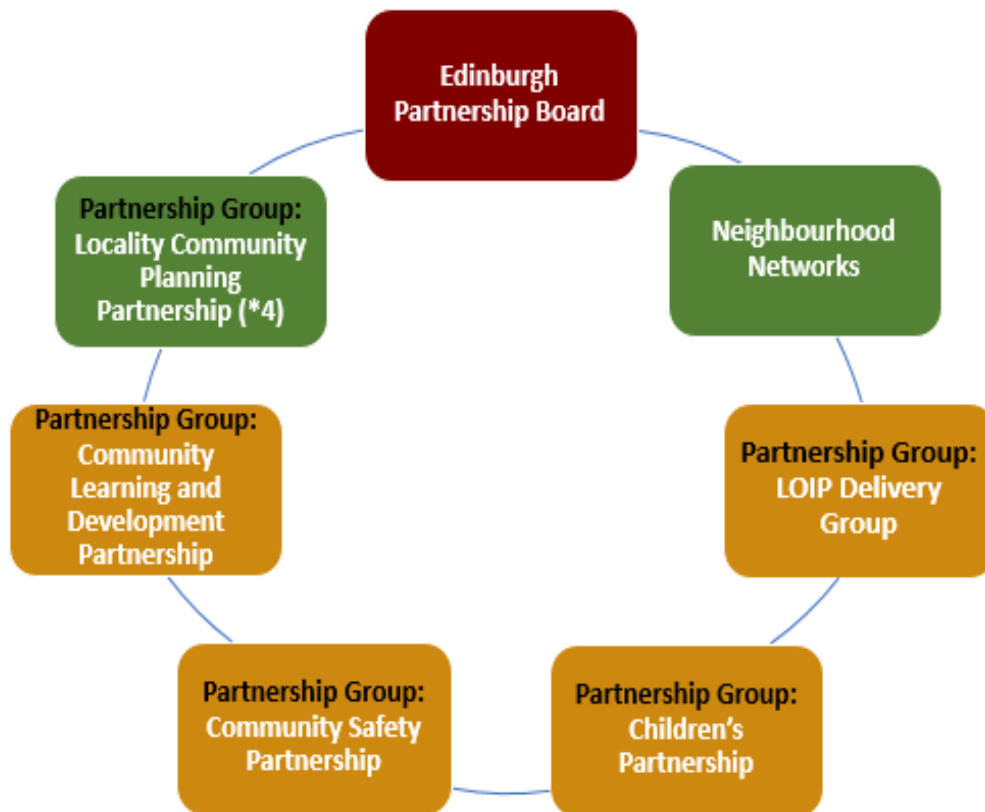


Figure 1.1 Executive Committee Structure

Partnership Working

- 1.15. The Council plays an important role in the Edinburgh Partnership, the Community Planning Partnership in Edinburgh, and its community planning structure. The framework agreed by the Edinburgh Partnership comprises a Board, four city wide partnerships, four locality partnerships and thirteen neighbourhood networks. The arrangements are designed to support a different way of working and to support the delivery of the Partnership's priorities for the city as set out in the community plan. The plan focuses on reducing poverty and inequality in the city through making sure people have enough money to live on; access to work, learning and training opportunities; and have a good place to live.



- 1.16. The Council, NHS Lothian and the Edinburgh Integration Joint Board work closely together in delivering a more caring, healthier and safer Edinburgh. Responsibility for the budget does not sit with the Council but it plays a key role in supporting the processes in place to ensure sound financial management and budget control.

Chapter Three - Decision making governance documents

- 1.17. The Council has a series of documents that underpin the democratic process and guide and direct how the Council is governed and operates. These documents are all publicly available.
- 1.18. [Committee Terms of Reference and Delegated Functions](#) – contains the membership and remits of all the Council’s committees and sub-committees.
- 1.19. [Contract Standing Orders](#) – determines how the Council procures services and goods. Also contains approval limits.
- 1.20. [Corporate Debt Policy](#) – governs how and when the Council pursues monies owed to the Council.
- 1.21. [Financial Regulations](#) – These regulations govern the proper administration of the Council’s financial affairs as required by S95 of the Local Government (Scotland) Act 1973.
- 1.22. [Member/Officer Protocol](#) – Sets out the roles and responsibilities of elected members and officers and guides how they should interact when carrying out their respective duties.
- 1.23. [Scheme of Delegation to Officers](#) – This determines which powers are delegated to officers and when and which elected members should be consulted with when carrying out the delegated powers. This is a requirement of the Local Government (Scotland) Act 1973.
- 1.24. [Standing Orders](#) – These are the rules which guide and direct how the Council, its committees and sub-committees operate.

Chapter Four – The meeting and the role of the Convener

The meeting

- 1.25. A meeting as defined in *Sharp v Dawes* 1876 is a ‘gathering or assembly of two or more persons for a lawful common purpose’. The case of *R v Swansea City Council ex parte Elitestone Ltd* (1993) confirmed that two people were sufficient to constitute a meeting but it is good practice to have at least three members of a committee so that the convener is not able to pass every item on their own through use of a casting vote.
- 1.26. There must be someone to preside over the meeting. A committee can, in the absence of an appointed convener, decide not to have a chair for a meeting but it must be a formal decision and recorded. It is though not good practice to not have a chair. The Council meeting must be chaired.
- 1.27. In terms of types of meeting, there are formal and informal meetings. Formal meetings are meetings of the local authority or a joint meeting of different local authorities. These are not necessarily decision making (advisory committees) but they usually will be. These meetings must be held in accordance with the Local Government (Scotland) Act 1973 and will usually be guided by Standing Orders. Informal meetings are termed working groups in Edinburgh and include All Party Oversight Groups. These are not directed by statute and there is complete flexibility in how they are carried out. They cannot, however, take decisions.

What’s in a name?

- 1.28. The Local Government etc (Scotland) Act 1994 sets out that each local authority shall elect a convener (replacing the chairman term of 1973) from its councillor cohort and may elect a deputy convener. The Act then allows Aberdeen, Dundee, Edinburgh

and Glasgow to call its convener Lord Provost, although it does not allow those Councils to call the depute convener depute Lord Provost.

- 1.29. The Local Government (Scotland) Act 1973 in Schedule 7 stipulates that, if present, the Lord Provost must chair the Council meeting, and in their absence the Depute Convener will chair the meeting. If both elected members are absent, then a chair must be appointed from the Councillor membership. Standing Orders sets out the same rules for committees with their respective conveners (and vice-conveners).

- 1.30. The role of a convener is different across local authorities, but it is very rare nowadays for a convener to just restrict themselves to presiding over a meeting. At the City of Edinburgh Council, the convener of a committee is also the Council's political spokesperson for the relevant area and is expected to work closely with the relevant executive director to plan and prioritise the work that is carried out and brought to the committee within their remit.

- 1.31. The role of a convener at a meeting can be summarised as follows:
 - 1.31.1. Leadership of Committee, Working Group, Board etc.
 - 1.31.2. Determine that a quorum is present.
 - 1.31.3. Confine discussion to being within the scope of the meeting and reasonable limits to time.
 - 1.31.4. Determine competency.
 - 1.31.5. Decide points of order.
 - 1.31.6. Facilitating the effective contribution of all members and ensuring that constructive and courteous relations are enjoyed by all.

- 1.32. Standing Order 8.1 (as it may be amended from time to time) also sets out the powers of conveners:

The duties of the Lord Provost or Convener of the meeting, in accordance with these Standing Orders, will include:

 - (a) Deciding on all matters of protocol, decorum, order, competency and relevancy;
 - (b) Determining all matters of procedure for which no provision is made within these Standing Orders. In reaching this determination he/she may be advised by the Clerk;

- (c) Deciding priority between two or more members wishing to speak;
- (d) Ensuring that a fair opportunity is given to all members to express their views on any item of business;
- (e) Preserving order within the meeting;
- (f) Ordering the exclusion of any member of the public, in order to prevent or suppress disorderly conduct or any other behaviour which impedes or is, in the Lord Provost or Chair's opinion, impeding the business of the meeting;
- (g) In the event of disorder arising, adjourning the meeting to a time and date the Lord Provost or Convener will fix then or later. In leaving the meeting, the Lord Provost or Convener in such circumstances, will without further procedure, have formally adjourned the meeting;
- (h) Signing the minutes of the previous meeting;

1.33. As can be seen above, the powers of a convener are significant and extensive but there are limitations to these powers:

- 1.33.1. Conveners must comply with Standing Orders; their powers do not allow them to ignore what Council has set out in Standing Orders.
- 1.33.2. The Councillors' Code of Conduct must be complied with.
- 1.33.3. The Wednesbury Principle – This is a principle that was set out in case law in 1948. In simple terms it means that any decision of the Council must not be unreasonable or irrational. Guidance states that the Council advisers should ensure that the Council or committee addresses its mind only to matters that it ought to take into account and does not refuse or neglect to take account of relevant matters. A convener's unreasonable actions could result in the decision of Council or committee being challenged or overturned due to the Wednesbury principle.

Chapter Five - The Agenda

Agenda

- 1.34. What goes on an agenda can often seem like a mystery for those new to Council meetings. An agenda is populated by the following methods:
- 1.34.1. Decisions by Council or committees asking for a report;
 - 1.34.2. Reports put on the agenda by an officer;
 - 1.34.3. Issues and requests raised by elected members and reported on by officers
 - 1.34.4. Public petitions
- 1.35. In terms of legislation, the responsibility for the agenda and its contents lies with the proper officer (Service Director: Legal and Assurance). This means that the proper officer can determine if an item is on the agenda or not. However, the proper officer will rarely take action to refuse to put a matter on an agenda and, in practice, the agenda will be formed through discussions with the executive director and the convener and, where relevant, other members of the committee. The Committee's agenda planning meeting will also feed into this process.
- 1.36. In terms of withdrawing an item from an agenda, only the committee, the Chief Executive, the relevant executive director or the proper officer can withdraw a report from an agenda. However, in practice, officers will usually be guided by the convener and members of the committee.

Access to Information

- 1.37. The Access to Information Act 1985 (inserted into 1973 Act), stipulates clear rules for Councils in terms of agendas and the notice of meetings.
- 1.38. It requires notice to be given of agenda items that the Council, committee or sub-committee are going to consider. It does not allow items to be considered that are not on the agenda unless they are ruled urgent by the convener. This rule effectively bans 'any other business'.
- 1.39. The Act also requires a notice period for the agenda and reports of three clear days before the meeting. This has been further clarified over the years by case law which has determined that the three clear days cannot include the day of publication, the day of delivery (ie receipt – which in practice given electronic delivery may be the same as the day of publication) and the day of the meeting.

Private Items

- 1.40. There are two ways in which information can be deemed to be private. The first is that a Committee may, by resolution, exclude the public where it is likely exempt information may be discussed. A description of exempt information is detailed in schedule 7A of the 1973 Act. This means that only matters contained in Schedule 7A are valid reasons for being held in private.
- 1.41. The Proper Officer determines whether a report contains exempt information when issuing the agenda. However, at the meeting the Committee can decide to take the item in public. The Act allows Council's to take a mixed approach to a private item. For instance, a Council can have the report in private but the discussion in public or the other way round if appropriate. A Council is also permitted to have elements of the report in private and others in public. The basic principle is to have as much information as possible in public. Officer advice in terms of risk and other factors should be considered by Committee when deciding whether to take an item in public.

- 1.42. The second way in which the public can be excluded is if it is likely that confidential information is to be disclosed. This is a decision taken by the proper officer and the committee cannot force this information to be held in public.
- 1.43. Confidential information is defined in the 1973 Act and in this context has a limited meaning:
 - 1.43.1. Information from a government department which when providing the information forbid disclosure to the public
 - 1.43.2. Information which is prohibited to be made public by statute or a court (eg data protected information)

Chapter Six - Agenda Planning Meeting Guidance

Purpose of Meeting

- 1.44. The Agenda Planning Meeting's (APM) function is to ensure that members and officers are suitably prepared for the upcoming committee meeting and its format.
- 1.45. The APM will cover the following areas of business:
 - 1.45.1. agree the agenda for the committee meeting; and
 - 1.45.2. plan future agenda items.
- 1.46. In normal circumstances, the APM should last no longer than 30 minutes.

Prior to the APM

- 1.47. The dates, times and location of the APM are agreed between the Convener and the clerk. These will be issued by the clerk.
- 1.48. The APM papers will, wherever possible, be issued before the APM meeting. There may be occasions where it is necessary to table the item at the APM. When a report is not available for the APM meeting, the clerk will liaise with the Convener and Vice-Convener over whether it should be presented on the main meeting's agenda.

Agree the Agenda

- 1.49. The primary aim of the APM is to ensure the Convener, Vice Convener, and officers are aware of the agenda and its format as follows:
 - 1.49.1. agree the running order of agenda items for the upcoming meeting;
 - 1.49.2. agree whether further information is required;

- 1.49.3. agree which officers should be requested to speak to the agenda items; and
 - 1.49.4. agree if there should be any external invitees.
- 1.50. It is unusual for APM meetings to be cancelled but in such an event the agenda is still required to be agreed and the practice outlined above should still take place between the Convener/Vice Convener and clerks.
- 1.51. The APM is a planning meeting for the upcoming committee and should not replicate the debate or discussion that would usually take place at the meeting. If necessary, officers should provide a very brief overview or appropriate additional information but not full presentations on reports. Members may ask specific points of clarification or suggest amendments where appropriate, although wherever possible issues of constituent or ward interest that require clarification should be raised directly with the reporting officer out with the APM.

Attendance

- 1.52. As the APM meeting is not a formal meeting of the Council, the Convener and Clerk and a representative from each of the appropriate service areas will attend. A member from each political group may also attend. Papers will be circulated to all members of the committee for information. Officer attendance should be kept to a minimum.

Future Planning

- 1.53. APMs can be used for planning future meetings. Although the APM does not have the power to make decisions, it can be helpful to discuss areas of business for the committee to consider and scrutinise in the future or highlight and suggest reports for future meetings, subject to decision by the committee at a formal committee meeting.

Rules and Regulations

- 1.54. The APM is not a formal meeting of the Council. It has no decision making power and does not need to comply with Procedural Standing Orders or the law relating to meetings. Councillors should declare any interests they have in the same way as at the committee meeting (as per the Councillors Code of Conduct).

- 1.55. To ensure transparency and accountability, political debate on committee items should take place at the formal committee meeting, not the APM.
- 1.56. The APM papers must be kept private and confidential as they have not yet been released to the public. The Councillors' Code of Conduct (in particular paragraphs 3.14 – 3.15) provides helpful guidance on members' responsibilities.

Chapter Seven - Reporting and Motions

Reporting

- 1.57. The report belongs to the relevant executive director whose name is on the report. A committee cannot change a report. An executive director may change a report following an agenda planning meeting (APM) but it is not an instruction from the APM and the final decision as to what is in a report lies with the director. The recommendations of a report are also the responsibility of the executive director. However, once the report is considered at the committee, it is for the committee to determine the decision.
- 1.58. The purpose of a report is to give elected members sufficient information to make a decision on an item of business. The report should give an explanation of why the officer has recommended a course of action. Any decision taken without officer advice and information is more susceptible to legal challenge and it would be likely that the court would send the decision back to the Council to be re-taken. A committee has to listen to the advice given to them but, other than limited circumstances (eg illegality or incompetency), whether or not they take that advice is usually up to the committee.
- 1.59. The Integrated Impact Assessment (IIA) process allows us to meet our legal obligations in relation to equality, socioeconomic disadvantage, climate change, sustainability, the environment and human rights. Council decisions are at risk of being legally challenged in court if IIAs are not undertaken when required or if not carried out to the required standard. There is guidance on the Council's intranet for officers on completing an IIA and elected members should query if a significant decision is to be taken and the IIA is not outlined.
- 1.60. If a report is as a result of a motion by an elected member then the officer should consult with the relevant elected member prior to the report going to the committee. This does not mean that the draft report needs to be shared with the member but sufficient information should be shared for the member to feed back on. If the original motion was heavily amended then it would be prudent for the officer to also consult with the mover(s) of the successful amendment.

Notices of Motions

- 1.61. Motions rather unhelpfully have two slightly different contexts in committee meetings. The first is notice of motions which go on the agenda and which adds a completely new topic to the agenda and the second is a motion (or amendment) which is to a existing report.

- 1.62. A notice of motion or an original motion has to be on the agenda so that sufficient notice is given. A notice of motion should not make any financial decisions. This is because there is no officer advice to inform the Council or committee of the consequences of the decision or the impact of that decision. As a result, any original motions that make decisions are more susceptible to successful legal challenge.

Emergency Motions

- 1.63. Emergency motions should only be used when an issue has arisen in the period between the agenda being circulated and the meeting and that the matter cannot wait until the next meeting. The emergency motion must be lodged before the meeting and the Lord Provost or Convener makes the decision whether the matter is ruled urgent and thus can be considered. If the motion is ruled urgent then the matter is dealt with at the end of the meeting. If the motion is not ruled urgent then the motion is continued to the next meeting.

Motions, amendments and addendums

- 1.64. Motions, amendments and addendums can all be lodged in regard to items on the agenda. Motions are the first proposal, and the convener has the right within Standing Orders to move the recommendations in the report as a motion. An amendment is another alternative proposal, and an addendum is a proposal that adds to the recommendations in the report or the motion but does not change them. If an addendum is not accepted, then it becomes an amendment.
- 1.65. When motions, amendments and addendums are being debated each mover has the ability to accept all or elements of any proposal that has been formally moved and seconded. The mover and seconders of the two proposals all need to agree for this to take place.
- 1.66. Composite motions are often a compromise between two or more proposals that are often too complicated to easily verbally describe. These are permitted at the Lord Provost or convener's discretion. These should be emailed to the clerk so the text can be distributed to all members.
- 1.67. Motions, amendments and addendums that impact on resources should, where possible, be discussed with senior officers before being submitted. This is simply to inform the submission and does not limit the use of the motion, amendment or addendum in any way. It will also help to ensure such matters remain competent.

Competency of Motions

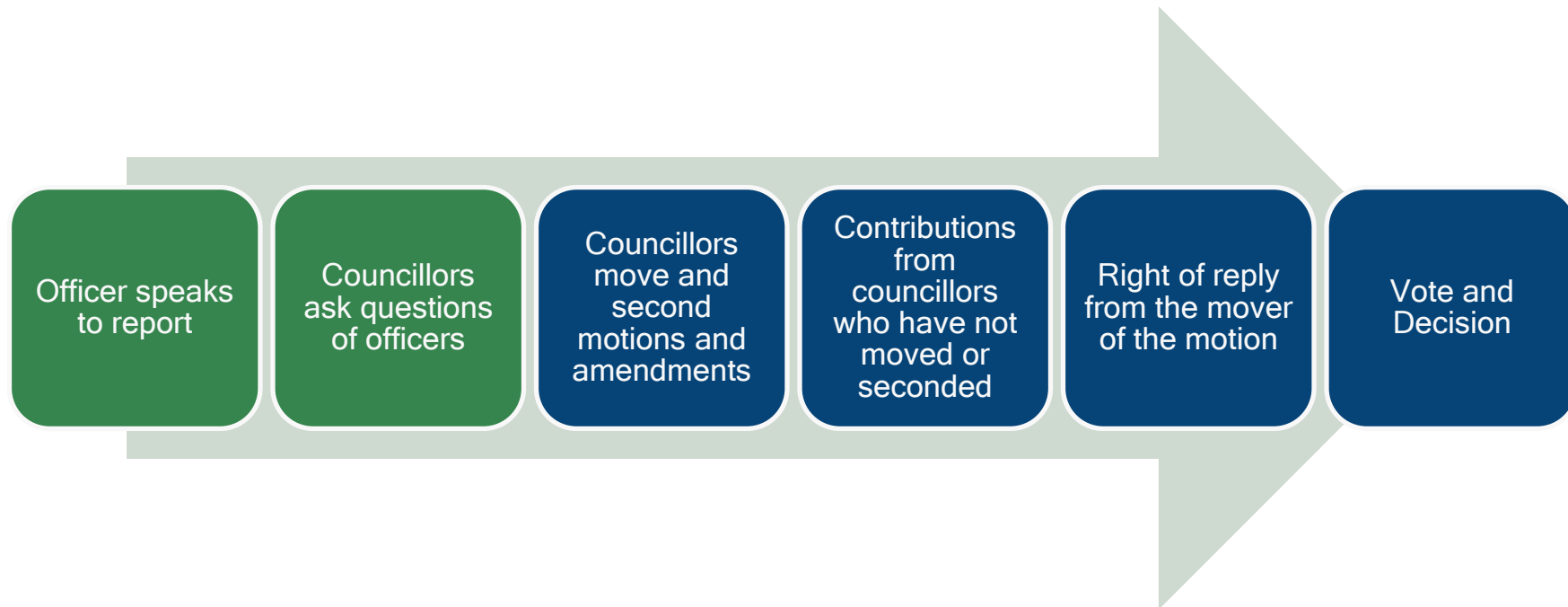
- 1.68. The competency of motions and amendments is often raised as an issue and many people mistake something as being a potentially bad decision or possibly inaccurate as being not competent. Although a motion that is inaccurate can be ruled not competent it is not the case for all motions. Although each motion has to be considered on its own merits, in most cases the following principles should be applied when considering competency of motions:
- 1.68.1. Is there sufficient officer advice – ie if it spends budget or uses resources then there should be an officer's report on the consequences
 - 1.68.2. Is it Ultra vires – i.e outwith the scope of the Council or that particular committee
 - 1.68.3. Is it irrelevant – where it bears no relevance to the original motion or report
 - 1.68.4. Is it inconsistent – incompatible with a decision previously taken at the same meeting
 - 1.68.5. Is it vexatious and intended only to impede the transaction of business
 - 1.68.6. Can be excluded in line with Standing Orders (the rules of procedure for the Council)
- 1.69. Once a motion or amendment has been moved and seconded then it can only be withdrawn by the mover with the consent of the Council or committee.

Writing a motion

- 1.70. There are no firm rules about writing a motion except what comes into competency but the following should be considered:
- 1.70.1. Pre-amble – establish the subject the motion is about – giving a background and the issue or problem you wish to solve;
 - 1.70.2. State how this relates to the Council;
 - 1.70.3. Refer briefly what the Council has done on this subject if not already done so above;
 - 1.70.4. State clearly what you want the meeting to agree to, stating cycles is fine but can be open to interpretation;
 - 1.70.5. Give clear timescales and if asking a report, where you want the report to go.

Order of discussion at a meeting

1.71. The order of discussion at a meeting follows a broad process which can be easily understood by thinking of the different elements of the discussion as distinct phases. This is why you commonly hear the phrase when councillors move a motion as going formal. From this point on there is not the avenue to ask questions of officers and you begin the formal decision-making process.



Chapter Eight - Budget Motions

Budget Meeting

- 1.72. The Council budget meeting follows the same rules as normal Council meetings but there are some variations.
- 1.73. The meeting is split into two main items:
 - 1.73.1. the Council revenue and capital budget; and
 - 1.73.2. the Housing Revenue Account (HRA) budget.
- 1.74. As a result, there are two items on which votes will be taken.
- 1.75. In terms of speakers, it is the Lord Provost's intention to give 10 minutes to movers of the budget motions and 5 minutes to those seconding the motion. All other speakers remain at three minutes. For the HRA budget normal standing orders apply.
- 1.76. The vote on the budget is the same as on normal Council items and will be an exhaustive ballot – ie until there is a motion with a clear majority of those present and voting.

Budget Motions and Amendments

- 1.77. Council decisions have to be transparent, robust, and defensible. They must accord with national legislation, including Best Value and equalities provisions.
- 1.78. The Council is obliged to construct and approve a legal budget, ie one where the total proposed spend for the financial year matches projected income.
- 1.79. At the Council budget meeting, it is possible that groups might seek to accommodate other groups' proposals, most likely following an adjournment after the initial moving of motions/amendments.

1.80. This could lead to a number of issues and these considerations must be taken account of:

Issue	Action
A group wishes to amend its motion/amendment when moving it by incorporating a part of another group's motion/amendment	This is acceptable as long as it can be verbally submitted at the meeting and with the consent of the Lord Provost and is a viable option
A group wishes to incorporate another group's proposal with corresponding saving included	This is acceptable, as long as (1) this is a viable option, i.e. the matter has previously been assessed against necessary criteria; (2) there is no knock-on effect to other statutory requirements; and (3) the mover and seconder of motion and amendment agree
A group wishes to incorporate elements of another group's proposal but subject to a change	<p>This is a potential problem. Once the motion and amendments have been moved and seconded, any adjustments can only be based on what has already been presented to the meeting.</p> <p>For example, if Party A accepted an increase in expenditure of £1m on X from Party B's motion then a saving of £1m would have to be taken – either from an unallocated amount on Party A's budget or from another Party's budget motion.</p>

Chapter Nine – Council Questions

- 1.81. Council questions are when a member of the Council can put a question to the Lord Provost or any relevant convener or vice convener about any relevant or competent business. A question can be re-directed to another convener with that Member's consent.
- 1.82. The question must refer to business within the remit of the committee that the convener or vice convener chairs.
- 1.83. Council questions must be submitted orally or in writing to the Clerk by noon two weeks before the meeting.
- 1.84. After a question has been answered the questioner may ask a supplementary question, if necessary, to seek clarification of the answer given. A supplementary question should not be a question on a new matter.
- 1.85. There are no restrictions on what a Council question should be, and it can be on any subject as long as it is within the remit of the relevant committee. However, consideration should be given to whether it is simply a request for information that could be provided outside the Council meeting. Council questions are meant to be questions to the political convener of the committee not just seeking information from officers. However, there are no restrictions in Standing Order on this. Council questions may clearly cover all areas but it is respectfully suggested that all other options are explored via officer before submitting a formal Council question to ensure best use of resources.
- 1.86. Council question should not be seeking information that would require significant recourse being utilised. For example if a question sought information that would require a team to be formed to research and collate then that would be better placed to be submitted as a motion.

Chapter Ten - Deputations

Deputations Criteria

- 1.87. Deputations must be on subjects that are within the Council or committee's powers or duties and must be regarding an item on that meeting's agenda. It is not within the power of the Lord Provost or convener to waive these requirements.
- 1.88. Deputations must be from an office bearer of an organisation or group and they must submit their request to the clerk no later than 2pm two days before the meeting. However, the Lord Provost or convener can waive these requirements.
- 1.89. It is the committee that determines whether or not to hear a deputation but must not discuss the merits of the case presented by the deputation when doing so.
- 1.90. Deputations are not permitted for quasi-judicial items.

Considerations for the Convener

- 1.91. Deputations should be no more than four persons and they have five minutes total to present their case. If there is more than one deputation on an item, then the Lord Provost or convener can change the time limit.
- 1.92. However, there is only one hour allocated to all deputations including questions. This time limit is not at the discretion of the convener or committee to change.
- 1.93. Questions to deputations are now limited to one per political group (or any independent members if any). The time limit for questions to each deputation is 10 minutes.
- 1.94. The item relating to the deputation should now be heard in the order laid out in the agenda. The Lord Provost or convener can change that under the agenda item 'Order of Business'.
- 1.95. Deputations are advised not to criticise named Council officers. Often there is no right of reply and naming officers, particularly junior officers, on a webcast is unfair and unnecessary. There is no issue with a deputation criticising officers generally, but they should refrain from naming them. If an officer is criticised by a deputation, then the Lord provost or convener should request that they keep any criticism general and avoid naming individuals.

Chapter Eleven - Decision Making at Committee

What is a decision?

- 1.96. It may seem obvious, but it is first worth considering what is considered a “decision”:
 - 1.96.1. A legally binding commitment for the Council; and
 - 1.96.2. Ability to be robustly defended in court; and
 - 1.96.3. Can't be changed within six months (subject to no material change in circumstances)

- 1.97. Examples of what does not constitute a decision:
 - 1.97.1. A statement of intent
 - 1.97.2. A suggestion at Committee not incorporated into its final decision
 - 1.97.3. A press statement
 - 1.97.4. A party manifesto commitment
 - 1.97.5. A commitment given at Leader's report

What is a good decision?

- 1.98. A good decision is when the Council or committee has taken account of all the facts. It should take account of the Wednesbury Principle – This is a principle that was set out in case law in 1948. It means that any decision of the Council or committee must not be unreasonable or irrational. Guidance states that the Council advisers should ensure that the Council or committee addresses its mind only to matters that it ought to take into account and does not refuse or neglect to take account of relevant matters.

- 1.99. With regard to bias and pre-determination it is clear that in quasi-judicial matters there can be no show of bias or pre-determination and that this could result in a successful appeal of the decision and potentially a referral to the Standards Commission.

1.100. The principles of competency that sit alongside motions and amendments equally apply to other decisions at committee:

1.100.1. Is it Ultra vires – i.e. outwith the scope of the Council or that particular committee

1.100.2. Is it irrelevant – where it bears no relevance to the original motion or report

1.100.3. Is it inconsistent – incompatible with a decision previously taken at the same meeting

1.100.4. Is it vexatious and intended only to impede the transaction of business

1.100.5. Can be excluded in line with Standing Orders (the rules of procedure for the Council)

When is a decision taken?

1.101. A question sometimes raised is when has a decision been taken? – ie when can you rescind a decision or when can you change your vote if you have voted incorrectly? In Edinburgh we take the moment of decision as when the clerk or convener has announced the next item. Until then there is an opportunity to have a re-vote or for a member to clarify their vote. As soon as the next item is announced there is no opportunity to go back to that item.

Chapter Twelve - Officer Decision Making

Scheme of Delegation

- 1.102. The majority of officer decision making is outlined in the Scheme of Delegation to Officers. The Local Government (Scotland) Act 1973 requires Councils to publish any delegation to officers that lasts over six months. The Scheme includes principles and when consultation with elected members should be carried out.
- 1.103. Officers named in the Scheme of Delegation can sub-delegate to other officers, but the Scheme requires directorates to set this out in writing and send a copy to the Head of Democracy, Governance and Resilience.
- 1.104. For contracts, officers must also consult the Contract Standing Orders which includes delegation limits within it.
- 1.105. Delegation is to particular named officers and must be carried out by the relevant specified individual(s). The Council cannot delegate power to an officer group such as the Corporate Leadership Team. Power is always exercised by an individual, but they can work with colleagues to come to their decision.
- 1.106. Officers must consult with the relevant convener or when appropriate, the Leader of Depute Leader when the delegated decision is likely to be regarded as politically controversial or is a material decision. A material decision that will have or is likely to have:
 - 1.106.1. A significant effect on financial, reputational or operational risk and/or
 - 1.106.2. A significant impact on service delivery or performance.
- 1.107. Consultation must take place before the decision is taken. As much notice as possible should be given so that the elected member can consider their response.
- 1.108. Officers must consult with local ward members if a decision affects a particular ward rather than a city-wide matter.
- 1.109. Committee or Council can require officers to report on the decisions taken under the Scheme of Delegation.
- 1.110. The consultation is simply consultation, and the decision must remain the relevant officer's decision as they are ultimately accountable for that decision.

Express Delegation by a Committee

- 1.111. A committee can make a one-off delegation to an officer. It must be a power that is within its remit, can only be for a period of six months and under and must be to a specific officer.
- 1.112. A committee can delegate a power to more than one officer but the result of that is that all the officers named can individually exercise that power. A committee cannot delegate power to more than one officer and require them all to agree to make a decision.

Implementation of Decisions

- 1.113. An officer has the power to take all necessary actions to implement a decision or policy within the remit agreed by the Council.
- 1.114. Following the Council or committee meeting, an action sheet is created which sets out the decisions of the meeting, as well as allocating any follow up work to the relevant executive director. The executive director then takes this and allocates it to the relevant officer(s) in their directorate.
- 1.115. An officer cannot take a decision which sets Council policy. This is a decision that must be taken by the Council or committee. There are templates on the intranet in how to set out a policy and, once agreed, a policy is entered into the publicly available policy register. Directorates are required to annually (or on another specified and agreed timeline) consider whether their policies need to be updated and report on this to the relevant committee.
- 1.116. Committee tracks those decisions that require a further report or briefing note back to committee through the outstanding actions log. The implementation of other decisions are not routinely monitored.

Urgent Decision

- 1.117. An urgent decision is one which would normally be made by the Council or a Committee but requires to be made urgently between meetings of the Council or Committee. The Chief Executive or appropriate Executive Director, in consultation with the

Convener and Group Leaders, may take action, subject to the matter being reported to the next meeting of the Council or appropriate Committee.

- 1.118. Again the decision must be made by the officer, but it is not under the Scheme of Delegation, the decision is made under Committee Terms of Reference and Delegated Functions. For officers there is a process to be followed for decisions taken under urgency and this is outlined on the Orb.

Chapter Thirteen - Hybrid Committee Meetings

Hybrid Meetings

- 1.119. S43 of the Local Government in Scotland Act 2003 permits remote participation in local authority meetings and its committees, sub-committees and joint committees.
- 1.120. In August 2021, the Council agreed that physical meetings of executive committees, and the Governance, Risk and Best Value Committee, would be reinstated from October 2021, on the basis of a hybrid model. Hybrid meetings are meetings where some participants are physically in the room and others join remotely.

Virtual Attendance

- 1.121. It is recommended that all members and officers attending remotely join the meeting at least 15 minutes before it is due to start to ensure that their internet connection and IT equipment are working properly.
- 1.122. It is recommended that those joining remotely use headsets where possible. Headsets provide a more consistent and reliable sound quality – headsets have been sourced and delivered to all elected members.
- 1.123. Council laptops should be used – this ensures that all the functionality in Microsoft Teams is available. Members joining remotely should continue to use the cameras on their devices.
- 1.124. If you have a network or IT issue that prevents you from joining the meeting, or if you are disconnected during the meeting, please attempt to communicate this to the Clerk via email or text.
- 1.125. If you are disconnected during a roll call vote, you can communicate which way you are voting by text to the Clerk.

- 1.126. A member who wishes to attend committee remotely, should, where possible, advise the convener and clerk in advance. If more than 25% of members request to attend remotely, the Proper Officer, in consultation with the relevant convener, will determine whether the meeting should revert back to virtual only, due to the difficulty of running and supporting a hybrid meeting with several members joining remotely.
- 1.127. The clerk should be advised of any planned substitutions for committees in advance of the meeting.
- 1.128. If the Convener is unable to attend the meeting physically, the meeting will usually be held remotely.

Communicating with the Convener and speaking at a meeting

- 1.129. In order to prevent a two-tier meeting, whereby either those attending virtually or those attending in person are at a disadvantage in terms of opportunities to contribute, members will be invited to speak/contribute in the order that they indicate this to the convener, where possible. Committee officers will assist the convener in keeping track of requests for contributions. Those in the room should raise their hand to indicate that they wish to contribute. Those joining virtually should use the Meeting Chat function, as per the previous arrangement – labelling messages ‘question’, ‘contribution’, ‘response’, ‘amendment’, ‘point of order’, etc. The chat function should only be used for this purpose. Please note the chat box and text is visible to all participants.

Chapter Fourteen - Working Groups

Working Group Framework

- 1.130. The chair of a working group will be agreed by the parent committee.
- 1.131. Membership of 'Working Groups' will be open to all members and agreed by the parent committee; with officers and outside representatives being involved, as required.
- 1.132. The chair will be able to add to the membership of a working group but not remove members who must be changed by the parent committee.
- 1.133. Working Groups should have a defined written remit, and a time-frame for delivery of that remit; all to be agreed by the relevant parent committee.
- 1.134. Long standing consultative working groups are permitted but consideration should be given to whether an alternative vehicle would be more appropriate.
- 1.135. Working Groups will agree flexible meeting arrangements, to recognise individual workloads, wherever appropriate.
- 1.136. Before creating a working group, discussions must be had with the relevant Executive Director on how the group will be resourced/supported.
- 1.137. Parent committees should consider annual re-appointment reports confirming the lifespan and necessity for a working group. Committees should confirm that working groups have clear objectives and give consideration as to whether a working group is the correct vehicle to take these forward.

Chapter Fifteen - Voting

Voting process

1.138. Voting is a relatively simple process, with the principle being that a final decision is competently made. Votes are taken whenever there is more than one proposal and continues until there is a final decision. Proposals must have a majority of those members present and voting to be passed. If there is not a majority, then the proposal with the lowest number of votes is dropped and a second round of voting takes place. This continues until there is a majority for one proposal. Example:

eg

Round	Motion	Amendment 1	Amendment 2	Outcome
1	30	17	16	No majority (30 for motion but 33 for other amendments) amendment 2 is dropped
2	30	17		Motion passed

1.139. If a proposal is dropped then the members who voted for the amendment can change their vote in the second round of voting or abstain.

1.140. If there is a tie then the Lord Provost or convener can cast their casting vote to break the tie. This can be used to determine which proposal is dropped as well as for determining the proposal that is successful.

e.g.

Round	Motion	Amendment 1	Amendment 2	Outcome
1	31	16	16	Lord Provost uses casting vote to drop amendment 2
2	31	16		Motion passed

e.g.

Round	Motion	Amendment 1		Outcome
1	31	31		Lord Provost uses casting vote for motion and the motion is passed

1.141. If there is more than one amendment, when one of those amendments is to continue the item or take no action then there is an initial vote on that proposal. For example if you have a motion and two amendments which includes an amendment on no action, then an initial vote is taken for or against no action. If the vote results in no action then that is the decision, if the vote is against no action then the second round of voting is between the remaining motion and amendment.

Chapter Sixteen – Deadlines

1.142. Deadlines are outlined in Standing Orders, but for convenience are outlined below. The example day is based on a Thursday Council.

Subject	deadline	Example day	Comments
Notice of Meetings	3 clear days (anytime)	Friday the week before	Does not include weekends, public holidays or the day of meeting, day or circulation or day papers received
Deputation requests	2pm - 2 working days before the meeting	Tuesday, the week of the meeting	
Council questions	Noon – 2 calendar weeks before the meeting	Thursday, 2 weeks before meeting	
Notices of Motions	Noon – 7 working days before the meeting	Tuesday, the week before the meeting	
Motions and amendments	Noon – day before meeting	Wednesday, the week of the meeting	
Budget motions	6 working days before the meeting	Wednesday, the week before the meeting	