

REPORT TO: POLICY AND RESOURCES COMMITTEE - 23RD JUNE, 2014
REPORT ON: REVIEW OF COSLA CONSTITUTION
REPORT BY: HEAD OF DEMOCRATIC AND LEGAL SERVICES
REPORT NO: 266-2014

1.0 PURPOSE OF REPORT

The purpose of this Report is to advise the Committee of proposals to revise the COSLA Constitution and Standing Orders.

2.0 RECOMMENDATIONS

The Committee are asked to note the position.

3.0 FINANCIAL IMPLICATIONS

There are no financial implications arising directly out of this Report.

4.0 MAIN TEXT

4.1 The Chief Executive received a letter dated 30th May, 2014 from the Chief Executive of COSLA giving Member Councils formal notification of a proposal by the COSLA Leaders Meeting which was agreed on that day to alter COSLA's Constitution. A copy of the letter is attached as Appendix 1 for the Committee's information.

4.2 The revised COSLA Constitution and Standing Orders, together with the old versions have been passed to Group Leaders, Councillor Macpherson, Bailie Scott and Bailie Borthwick.

4.3 This matter is to be put before the COSLA Convention at its meeting on 27th June for a decision.

5.0 POLICY IMPLICATIONS

This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

6.0 CONSULTATIONS

The Chief Executive and Director of Corporate Services have been consulted in the preparation of this Report.

7.0 BACKGROUND PAPERS

None.

Roger Mennie, Head of Democratic and Legal Services

DATE: 3rd June, 2014

APPENDIX 1

From the Chief Executive Rory Mair



30th May 2014

Sent to : Chief Executives
Cc : Leaders

Dear Colleague,

The purpose of this letter is to give member Councils formal notification under the terms of paragraph 18.2 of our Constitution of a proposal by the COSLA Leaders meeting, which was agreed on 30th May, to alter COSLA's Constitution. It is intended to put this matter before the Convention at its meeting on 27th June. This letter sets out the high level changes as presented to Leaders. Leaders agreed these but asked for the report to Convention to contain a significantly greater amount of detail in the interest of transparency and clarity. They also agreed to ask Convention to give consideration to the issue of gender balance on COSLA's structures.

Review of COSLA Constitution

At its meeting on 13th December 2013, the Convention agreed a motion from Scottish Borders Council setting up a short life Task Group to review the Constitution and Standing Orders of COSLA. It was further agreed that the Task Group complete its work by mid-May to allow any resulting decisions to be made at Convention in June 2014.

The short life Task Group has been meeting regularly over the last six months. The Task Group had its final meeting on Friday, 16th May. The Task Group has agreed a number of changes it would wish to recommend regarding COSLA's Constitution. These were endorsed by Leaders on 30th May.

The revised COSLA Constitution and Stand Orders are attached as Annex 1 and 2 to this letter. The old versions are also attached as Annex 3 and 4.

Changes Proposed by the Task Group

In reviewing the Constitution, the Task Group split its work into four elements.

The first element is a reviewed outline of the goals and objectives of COSLA as an Association. These are important as they outline the reason for individual local authorities coming together in an "Association of Public Bodies" which is COSLA's unique legal status. There are three sorts of changes proposed here. Firstly, the description of our goals is old fashioned and makes little or no reference to either the place of local Government in Scotland or our commitment to producing better outcomes for communities. This Task Group proposes that these paragraphs be updated by amendments which are contained in section 3 in pages 1 and 2 of the new Constitution. The main changes are :

- the addition of COSLA's role in political lobbying in paragraph 3.1.
- the elimination in section 3 of any reference to activities that COSLA no longer does on behalf of individual Councils such as training, research and the identification of good practice.
- the addition in paragraph 3.8 on page 2 of the Constitution of a specific reference to improving the lives of local people; and
- the enhancement of local government's position as part of the governance of Scotland.

Secondly, the current Constitution makes little or no reference to COSLA's commitment to working consensually through cross-party political lobbying. This way of working is better reflected in the revised Constitution at paragraph 3.11 on page 2.

Leaders agreed these changes should be put to Convention.

The second element is the rules of the Association outlining how the various structures are populated, how resignations and appointments will be dealt with, how financing the Association is dealt with and where elections are necessary how they will be conducted. The Task Group is bringing forward changes to the Constitution in two particular areas of COSLA's "rules". Firstly, the Task Group is proposing that with regard to Convention a more explicit and exact rule regarding the requirement of Councils delegations to reflect the political makeup of that Council will be proposed. Leaders will be asked to agree that this new requirement will be mandatory as opposed to advisory and that for practical reasons that implementation of this clause will be postponed until new Council delegations are formed following the next local government elections. This change is reflected in page 3/4, paragraph 4.8 (a) and then again on page 8, paragraph 10.2 which deals with the issue of substitute members. Secondly, the Task Group proposes the definition of what constitutes a political group for all purposes within COSLA is determined. The proposal which the Task Group wishes to refer to Convention a Political Group within COSLA's Constitutional arrangements that Group must comprise at least 5% of the total elected members in Scotland. This new provision is included in the glossary on page 11 of the new Constitution at paragraph 19.5 and the sections where this new definition will be used are page 4, 4.8 (c) and page 9, paragraphs 13.2, 14.1 and 14.2.

In addition, the Task Group is proposing a change to further demonstrate the impartiality of the Presidential Team. The Task Group is proposing that neither the President nor Vice-President should vote at Convention or Leaders except in the circumstances where a casting vote is required. The clauses that bring this change about are page 4, paragraph 4.9, page 5, 5.3 of the Constitution and page 3, paragraph 14, 3 (a) of the Standing Orders.

Leaders agreed these changes should be put to Convention.

The third element of the Review Group's work relates to COSLA's Standing Orders which cover the rules and regulations around calling meetings, bringing forward motions and the management of debates. There are two main areas within the Standing Orders which the Task Group suggests require alteration. The first of these relates to the management of meetings. The Task Group is of the opinion that as a political organisation the way we run our meetings should encourage rather than inhibit political debate. There are a number of rules contained in Standing Orders which if

implemented would lead to a very formal and artificial style of discussion. The Task Group believes that these should be removed and replaced with a much smaller number of general rules which would be used by the meeting's Chairperson in exercising his or her responsibility to efficiently manage the meeting. These alterations are in section 3 of the standing orders relating to procedure. They are set out on page 2 of the old standing orders where paragraphs 10,11,12,13 and 14 are removed to be replaced with the smaller number of rules contained in paragraphs 6 – 8 of the new Standing Orders. Leaders will see that paragraph 8 includes a new provision for motions at meetings to be in writing in order to ensure greater clarity.

Secondly, COSLA already uses a more formal card voting procedure to govern voting at Convention meetings than is currently in our Constitution. This more formal procedure was developed at the instigation of Convention members and the Task Group proposes that the Constitution is altered to reflect this practice. This issue is outlined on page 3 of the new Standing Orders at paragraph 14 (2) (a).

Leaders agreed these changes should be put to Convention.

The fourth element of the Constitution relates to the structures of COSLA itself. This element of the Constitution gives authority for the various elements of COSLA's structure to act in the particular way. Convention, Leaders, Leadership Board, Executive Groups and Task Groups all draw their authority from this element of the Constitution. This was perhaps the most complex element of the Constitution for the Task Group to deal with. It determines the relationship between Convention and Leaders and deals with the issue of whether any hierarchical relationship exists between these two bodies and whether that relationship results in a call-in procedure. In considering this element, the Task Group has developed a series of proposals which if approved by Convention would have far reaching consequences.

Firstly, the Task Group proposes that there should be no hierarchical relationship between Convention and Leaders. This first change that reflects this is with regard to paragraph 6.1 on page 5 of the new Constitution which replaces paragraph 7.1 on page 4 of the old Constitution.

Secondly, there is a requirement for the strongest possible forum in COSLA to be the guardian of the position of local government in Scotland and the strategic direction of COSLA. This very positive role should be attributed to the full Convention therefore a new description of this role is proposed for Leaders consideration. The clauses that carry this new description are on page 3 of the new Constitution, paragraphs 4.1 – 4.6.

Thirdly, the Task Group recognises that in addition to this strategic role, the executive implementation of COSLA's strategy and policies is equally important. This role should be attributed to Leaders and the variety of groups that stem from Leaders and is reflected in page 6, paragraphs 6.5 (a) to (o).

Whilst Convention would have the responsibility to be assured that the executive implementation of its strategies was being delivered by the work of Leaders, this would not be done on a call-in basis but rather by a discussion, at least annually, between Convention and Leaders about the cumulative effect of their work. This relationship and provisions to ensure that the way in which Convention and Leaders can ask each other questions is outlined in the new Standing Orders, page 4, paragraph 18 (a) and (b). It also involves the elimination of paragraph 23 (2) on page 4 of the old Standing Orders.

The final two alterations proposed by the Task Group relate to concerns expressed with regard to Leadership Board. The Task Group recognised concern that there was no clarity of purpose regarding the role of the Leadership Board. For this reason, they propose that the Leadership Board is disbanded altogether.

The Staffing element of its previous responsibilities will be undertaken by the establishment of a Staffing Committee comprising the President, Vice-President and Group Leaders. Emergency items will be dealt with directly by the Leaders meeting itself. The disestablishment of Leadership Board is dealt with by the removal of paragraphs 14.1 – 14.4 on page 8 of the old Constitution. The establishment of the Staffing Committee is outlined on page 9, paragraphs 13.1 – 13.3 of the new Constitution.

The responsibility and procedure for dealing with urgent items is set out in the new Constitution on page 7, paragraph 6.6. The Task Group believes that overall these changes clarify and strengthen COSLA's corporate governance and establish a necessary partnership between Convention and Leaders rather than an inappropriate hierarchy.

Leaders agreed these changes should be put to Convention.

I hope this information is helpful. We shall, of course, have the opportunity for a full debate at the Convention meeting in June but in the meantime if you need any further discussion or detail on these proposed changes please do give me a call.

Yours Sincerely

A handwritten signature in cursive script that reads "Rory Mair". The signature is written in black ink and is positioned above the printed name and title.

Rory Mair
Chief Executive