

Agenda Item	17
Report No	HC/24/17

## HIGHLAND COUNCIL

**Committee:** Highland Council

**Date:** 29 June 2017

**Report Title:** **FORMATION OF JOINT COMMITTEE FOR ROADS COLLABORATION**

**Report By:** **Director of Community Services**

### **Purpose/Executive Summary**

This report outlines work currently being undertaken within the Scottish public roads sector to explore and develop opportunities for greater collaboration between Roads Authorities.

This Report is submitted to Council in terms of the Council's Scheme of Delegation relating to the exercise of functions of the Council as Roads Authority including safety, the detailed planning, design and construction, improvement, maintenance and lighting of roads, bridges and other structures.

### **Recommendations**

Members are invited to:

- Establish a Joint Committee in terms of Section 56 and 57 of the Local Government (Scotland) Act 1973 with Aberdeen City Council, Aberdeenshire Council, Angus Council, Argyll and Bute Council, Comharlie nan Eilean Siar and The Moray Council to be known as The Northern Roads Collaboration Joint Committee;
- Empower the Joint Committee by delegating to it the functions outlined in **Appendix 1** of this report;
- Alter the Scheme of Delegation as outlined in **Appendix 1** of this report to give immediate effect to the establishment of the Joint Committee;
- Authorise the Head of Corporate Governance to enter into an inter-authority legal agreement with the other member Councils to agree the governance and administrative arrangements for the Joint Committee.
- Note that the decision on whether a Constituent Local Authority participate in roads collaboration projects will be reserved to the Councils and not delegated to the proposed Joint Committee;

- Agree that Aberdeenshire Council take the role of Lead Authority for year 1 of the Joint Committee;
- Appoint two named Members and two named substitute Members to the Joint Committee; and
- Agree that the Places Committee receives an annual report on performance, activities and achievements of the Joint Committee.

## **1. BACKGROUND**

- 1.1 Aberdeenshire Council, Aberdeen City Council, Angus Council, Argyll and Bute Council, Highland Council, The Moray Council, Orkney Council and Western Isles Council have all been in discussion about collaboration and sharing of services relating to Roads since late 2014.
- 1.2 The Roads Collaboration Programme and the formation of the Northern Roads Collaboration Forum of Councillors were reported to the 28 April 2016 meeting of the Community Services Committee (COM 16/16 – Item 7).
- 1.3 Highland Council, along with other Roads Authorities, has for many years, sought and introduced a range of local and national collaborative and shared service/capacity initiatives, recognising the value of working with others to improve resilience and to reduce costs. Much of this work to date has been informal, but does illustrate a positive culture of co-operation, and good starting point for more formal arrangements.
- 1.4 Although collaboration exists, particularly among neighbouring Councils, Local Authorities are in some cases struggling to overcome barriers to fully benefit from increased collaborative activity, due in the main to the perceived complexities of EU procurement law.
- 1.5 The National Roads Maintenance Review of 2012 made a number of recommendations to Roads Authorities. In particular there was an increased expectation of collaboration and there is likely to be an increased focus later this year from Audit Scotland on the implementation at Council level of sharing and collaboration in the delivery of road-related functions.
- 1.6 Scotland has an ageing population and, by extension, an ageing workforce. This is a recognised issue within the demographic of road services professionals. This, coupled with a reduced workforce ‘pool’ of specialised skills, and difficulties in succession planning, means that it is necessary to address workforce planning strategies now to provide a resilient workforce in the future. There is a need to look at opportunities to pool resources, up-skill staff, encourage new people to work in this service area, and increase local employment opportunities at all levels as part of future collaborative work. The ability of local authorities to work together is considered essential, not only to deliver long term efficiencies, but to provide resilience in this key frontline service for Scotland’s communities.
- 1.7 Officers and members of the respective Councils met as a Forum on 3 March 2016. The remit of the Forum is to provide leadership, direction for collaboration, transparency and compliance within a governance framework.

Members of the Forum agreed to move to the establishment of a Joint Committee, being the most appropriate formal framework to enable collaborative activities. A Joint Committee structure would also be compliant with the relevant principles of EU procurement law. All of the respective authorities are taking or have now taken this matter to their Council meetings in anticipation that the first meeting of the Joint Committee would be held Summer 2017.

- 1.8 If established, the Joint Committee would provide direction and leadership to allow suitable projects for collaborative working to be identified, and would make recommendations to the Councils on the proposals. A decision would then be taken by each Council on whether to take part in each project. In order to participate in a project, each Council would require to allocate resources towards that project (this may be in the form of provision of workforce/equipment/property, instead of, or as well as, a budget).
- 1.9 The Joint Committee would then be empowered to manage those resources and approve operational expenditure within agreed budgets. It is proposed that the Council's Places Committee be the appropriate forum for considering whether the Council should participate in projects following referral by the Joint Committee (having delegated authority in relation to roads functions) and provide recommendation to the Council's Resources Committee for approval of the activity with budget and/or resources.
- 1.10 Once a project is initiated, the Joint Committee would oversee the delivery of the project, and monitor efficiencies derived through the joint working arrangements. The Joint Committee would produce an annual performance report and financial statement, which would be made available to all member Councils.
- 1.11 There would also be scope for the Joint Committee to establish Sub-Committees if only a limited number of Councils wished to take part in a project or activity. This would then allow those participating Councils to oversee the delivery through a project specific Sub-Committee comprised of members of only the participating Councils.
- 1.12 The Joint Committee, if established, would be supported by an Officer Group, the remit of which would be to implement the projects/activities and report to the Joint Committee on progress. The Officer Group would also present new proposals to the Joint Committee on areas of potential collaborative working.
- 1.13 At its meetings on 3 March and 25 October 2016, the Northern Roads Collaboration Forum considered initial suggestions for a range of suitable activities for collaborative working and officers are working to develop proposals on those areas further. A summary of the topics considered by the Forum is set out in **Appendix 3** for information.

## **2. ESTABLISHMENT OF A JOINT COMMITTEE**

- 2.1 A Joint Committee formed under Sections 56 and 57 of the Local Government (Scotland) Act 1973 has been identified as the most appropriate vehicle for joint working for local authorities in this context. The proposal to formalise the arrangements for roads collaboration through a Joint Committee is supported by the Scottish Government and Improvement Service. It is proposed that the

Joint Committee be known as “The Northern Roads Collaboration Joint Committee”, which would be the successor of the Northern Roads Collaboration Forum.

- 2.2 A briefing note on the general nature and provisions related to Joint Committees is attached as **Appendix 4** to this report.
- 2.3 The Joint Committee requires to be set up by the respective local authorities and a delegation of powers specifically narrated in order that the Joint Committee has sufficient authority to act.
- 2.4 The purpose, activities and recommended powers for the proposed Joint Committee are outlined in **Appendix 1**. For the proposed Joint Committee to be fully operational, it requires each participating Council to give it the same formal recognition within its constitutional documents and delegate the same powers to it. In order to achieve this, it is necessary to alter the Scheme of Delegation.
- 2.5 The membership of the Joint Committee is to comprise exclusively of Elected Members, with two substantive and two substitute members being appointed by each Council. The Joint Committee could invite non-Elected Members to its meetings as consultees or advisors, however they would not form the membership of the Joint Committee.
- 2.6 It is proposed that the Chair and one of the vice Chairs of the Places Committee be appointed as the Council’s substantive members on the Joint Committee.

### **3. ALTERATIONS TO THE SCHEME OF DELEGATION**

- 3.1 There are a number of alterations required to the Scheme of Delegation so as to delegate appropriate powers to the Joint Committee Accordingly, proposed alterations are noted on the version of the Scheme of Delegation attached at **Appendix 1 in bold** for ease of use.
- 3.2 The List of Delegated Powers to Officers may similarly need updating in order for officers to implement decisions of the Joint Committee. The requisite changes will be brought to a future meeting of the Council, if required.

### **4. INTER-AUTHORITY AGREEMENT FOR THE OPERATIONAL ARRANGEMENTS OF THE JOINT COMMITTEE**

- 4.1 In order to finalise the detailed governance and administrative arrangements for the Joint Committee, a legal agreement will require to be put in place between the member Councils. The aim of this is to ensure that the governance framework, as well as other legal and financial arrangements, are clear, transparent and appropriate, and that the Council’s interests are protected and legal and financial risks minimised. Officers within Aberdeenshire Council are leading in respect of the drafting of this document.
- 4.2 A summary of the key points which are likely to be included in the Inter-authority Agreement are set out in **Appendix 2** for information. A draft Minute of Agreement was discussed at a meeting of the Forum on 14 June 2016 and comments from the Forum were obtained. Consultation with legal officers in

the other authorities has taken place and the document has been finalised..

- 4.3 Much of the work to move roads collaboration forward to date has been progressed by Aberdeenshire officers in conjunction with the Improvement Service. It is recognised that the Joint Committee, if established, would require administrative and business support in order to properly function. At the meeting of the Forum on 14 June 2016, options for these arrangements were discussed, which included the possibility of services being provided by a Lead Authority, or that a Lead Authority may arrange provision of specialist support services by other Councils. It is proposed that Aberdeenshire Council agree in principle to be the Lead Authority for the initial 12 months followed by a review. The costs of providing business services support would be split equally between the participating Councils, and this would form part of the inter-authority agreement.

#### **4. Implications**

- 4.1 Resource – The fundamental financial consideration within this proposal is the requirement to provide assurances to each Council that within the governing body, although investment may at times be directed for the benefit of collective service provision and for driving efficiencies, every investment benefit will be clearly focused and identifiable for each Council's own budget. The establishment of governance to lead the development of collaborative activity does not in itself have any financial implications. Each collaborative activity will be subject to a high level business case assessment prior to seeking approval from Elected Members.

Based on at least 3 meetings of the Joint Committee a year with associated production of papers, expenses associated with room provision and travel/ICT plus staff time it is estimated that the costs to support the Joint Committee should not exceed £8000 a year. This assumes that any staff/member time beyond attendance at and preparing for the Joint Committee is absorbed by each authority. If split equally then the direct cost per authority should not exceed £1000 a year.

Legal – partner authorities will not be obliged to enter into any sharing/collaboration. Each collaborative activity will be subject to a high level business case assessment prior to seeking approval from Elected Members. Policy decisions will remain with individual participating authorities.

Community (Equality, Poverty and Rural) –there are no direct equality, poverty or rural implications arising from these proposals

Climate Change/Carbon Clever –

Risk – these proposals are designed to eliminate risk of sharing/collaborating which does not conform to EU procurement rules.

Gaelic – there are no Gaelic implications arising from these proposals.

Designation: Director of Community Services

Date: 9<sup>th</sup> June 2017

Author: Robin Pope

Background Papers:

## **Appendix 1**

### **Amendments to the Scheme of Delegation**

To add the following:

at page 21 of the Scheme of Delegation, in respect of the Places Committee.

#### **The Northern Roads Collaboration Joint Committee**

Following recommendation by the Northern Roads Collaboration Joint Committee, to consider and make recommendations to the Highland Council proposals for participation in Roads Collaboration activities.

Add an additional page at the end of the Scheme of Delegation and update the index accordingly:

#### **THE NORTHERN ROADS COLLABORATION JOINT COMMITTEE**

The Northern Roads Collaboration Joint Committee is a Joint Committee established by Aberdeen City Council, Aberdeenshire Council, Angus Council, Argyll and Bute Council, Comhairle nan Eilean Siar, The Highland Council, and The Moray Council (the “Constituent Authorities”) under sections 56 and 57 of the Local Government (Scotland) Act 1973.

The Joint Committee undertakes to appoint two named representatives from each Constituent Authority to its membership.

The creation of the Joint Committee represents the joint commitment of the Constituent Authorities to work collaboratively for the joint discharge of road and road-related functions, including ports and harbours (the “Roads Collaboration”).

In particular it shall have the following powers:

1. To identify suitable projects and initiatives for Roads Collaboration and to make recommendations to Constituent Authorities.
2. To make recommendations to Constituent Authorities in respect of resource contribution, funding arrangements and budget setting for projects and initiatives for Roads Collaboration.
3. To manage resources and approve operational expenditure within agreed Joint Committee budgets for Roads Collaboration.
4. To monitor the effectiveness of the Roads Collaboration and to identify potential improvements and efficiencies.
5. To approve an annual performance report and financial statement for the reporting year on Roads Collaboration.
6. To approve and amend Standing Orders for the Joint Committee and any of its Sub-Committees.

7. To appoint the Chair and Vice Chair of the Joint Committee and any of its Sub-Committees.

8. To make arrangements for the provision of business support services for the Joint Committee and any of its Sub-Committees.

## Appendix 2

### **SUMMARY OF LIKELY ARRANGEMENTS FOR INCLUSION IN INTER-AUTHORITY AGREEMENT**

- a) Each Council to appoint two Elected Members as substantive members and two Elected Members as substitute members to the Joint Committee.
- b) Each Council may opt to change its Members at any time.
- c) The Joint Committee will appoint a Chair and Vice Chair from within its membership. The term of office of the first Chair and Vice Chair is until 1<sup>st</sup> April 2017. After this, the term of office of Chair and Vice-Chair will be twelve months.
- d) The quorum of the Joint Committee will comprise of six Members.
- e) The Joint Committee shall adopt its own Standing Orders and may amend these.
- f) The Joint Committee will meet at least three times each year.
- g) Each Council is to determine if it wishes to take part in each project identified as suitable for collaborative working.
- h) A project/activity needs to have two or more Councils taking part to proceed under the remit of the Joint Committee.
- i) Where less than 5 Councils agree to take part in a project/activity, a Sub-Committee will be formed for that matter.
- j) A Council can “host” or lead in the delivery of a specific project/activity.
- k) Each Council must make a financial or resource contribution (which may include funding or provision of staff, equipment or property) to in order to take part in a project/activity.
- l) Councils cannot make a profit through collaborative working.
- m) The Joint Committee will make and may review arrangements for the provision of the business support services it requires. These may be provided by a Lead Authority or a Lead Authority may make alternative arrangements for the provision of these, such as by specialist support provision by other Councils. The costs associated with business support provision will be split equally between the Councils.

## **Appendix 3**

### **INITIAL ACTIVITIES BEING CONSIDERED FOR COLLABORATIVE WORKING**

#### **Activity 1: Ports/Harbours and Marine Opportunities**

This proposal presents five broad areas within the ports/harbours and marine sector where collaboration has the opportunity to bring cashable savings and also to share expertise and resource. Typically responsibility for these lies within a Council's Road Service, often utilising existing bridges/structures teams within each local authority.

It was recommended that Members of the Forum note the initial case for collaboration in the various duties and responsibilities associated with ports, harbours and marine opportunities and to await a further more detailed report which will recommend a single preferred option based on further analysis and market scanning. The Forum members saw clear benefits around potential sharing of physical resources e.g. dredging equipment.

#### **Activity 2: Workforce**

This business case is to support the sharing of workforce where one Roads Authority has a capacity or skills shortfall which can be offset by the provision of in-house resources from another Roads Authority. Such arrangements as agreed by a joint committee (the Northern Roads Collaboration Committee) would have a memorandum of understanding (MOU) which would apply to each sharing arrangement. Such an arrangement would save the need for formal procurement. The memorandum of understanding would be subject to annual review by the Joint Committee. This activity concerns potential sharing of front-line workforce but it could equally apply to specialist technical staff functions such as design of structures, site supervision or traffic engineering.

#### **Activity 3: Road Signage**

This activity outlines the case for extending the current collaborative arrangements between Councils around the design and fabrication of road signs for planned and emergency use, to enhance the viability of the current facilities and provide improved service to participating authorities.

It was recommended that Members of the Forum note the initial case for collaboration in the design and fabrication of road signs and to await a further more detailed report to show the implications and benefits to each participating authority, prior to each Council taking a formal decision to participate or otherwise. The purpose of this collaborative activity is to provide an opportunity for Councils out with the current agreement to benefit from sign fabrication facilities managed within the public sector. Any decision to participate will depend on a best value comparison which will shortly be undertaken by those wishing to explore the opportunity further.

#### **Activity 4: Training**

The purpose of this activity is to outline the case for sharing of training requirements and resources. In particular it is looking at the opportunities available in the procurement and delivery of joint training opportunities, potentially as a centre of excellence for training and cross border health and safety collaboration ensuring that a uniform and high level of skill is provided and maintained.

It was recommended that Members of the Forum note the initial case for sharing resources involved with training and health and safety compliance across the Forum area, and instruct officers to develop further the preferred option and submit a more detailed report to show the implications and benefits to each participating authority, prior to each Council taking a formal decision to participate or otherwise.

## Appendix 4

### BRIEFING NOTE ON JOINT COMMITTEES

Joint Committees can be established under sections 56 and 57 of the Local Government (Scotland) Act 1973. A Joint Committee can serve as a framework, providing overall governance and accountability and ensuring that two or more Local Authorities can work together with common purpose without the need for duplication of effort and formality.

In a Joint Committee arrangement, each of the Authorities commits to some sharing of resources (no fixed requirements regarding kinds of resources contributed by each, nor the proportions in which they contribute etc). Financial contributions are based on sharing of costs (there should be no margin/profit element). Operational assets currently owned by each Authority would be held for the common benefit of the participating Authorities (no need for transfer of ownership). Staff teams of each Authority deployed in accordance with decisions of the Joint Committee (no need for TUPE transfers). Individual projects may be built up under the overall umbrella of the Joint Committee.

The Joint Committee would be a decision-making body. The Joint Committee would need to be appointed and given its delegation of powers from each of the Local Authorities. Once delegated however, there would be no need to refer back to the parent Authorities so long as the Joint Committee operated within that delegation. The Joint Committee would operate as if it were a committee of a single Authority (except that it cannot make decisions to borrow money). Membership issues would be worked through and separate Standing Orders would be devised for the Joint Committee which would address quorum, voting etc.

The Joint Committee could itself appoint Sub-Committees to discharge part of its functions or to simply advise them. There is statutory scope for incorporating a Joint Committee to form a Joint Board.

Incorporation would offer limited liability and a separate legal persona from the member Authorities but there would require to be a clear rationale for pursuing this route.

Two or more Authorities could also set up Advisory Committees jointly (so the purpose of the committee would be to advise rather than to discharge functions – they would not themselves have powers of decision making).