

**REPORT TO:** East Lothian Council

**MEETING DATE:** 25 June 2013

**BY:** Executive Director (Support Services)

**SUBJECT:** Review of East Lothian Council Standing Orders

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## **1 PURPOSE**

- 1.1 To seek approval of the revised Scheme of Delegation (Appendix 2 to Standing Orders) and of the inclusion of the Council's Procurement Procedures as an appendix to Standing Orders.

## **2 RECOMMENDATIONS**

- 2.1 The Council is asked:
- 2.1.1 to approve, in principle, the revised Scheme of Delegation (Appendix 2 to Standing Orders), with delegation to the Chief Executive to incorporate any amendments which arise as a result of changes to Council structures; and
- 2.1.2 to approve the inclusion of the Council's Procurement Procedures as an appendix to Standing Orders.

## **3 BACKGROUND**

- 3.1 The Council's Standing Orders were last subject to a major revision in September 2008 and have undergone a number of amendments since then to reflect changes to the Council's decision-making and management structures. For some time it has been the view of Elected Members and Chief Officers that the Standing Orders and the Scheme of Delegation require further revisions to make them more accessible and user-friendly and to reflect recent changes to the Council's management and decision-making structures.
- 3.2 A short-life working group has been reviewing the Standing Orders and associated appendices for a number of months. An amended version of the main text of the Standing Orders and those appendices which have undergone revision have been subject to consultation with the Council Management Team, the Administration and the Opposition. Further work

is required in relation to the main text of Standing Orders and the Scheme of Administration, and it is intended that these documents will be submitted to the Council for approval in August 2013.

- 3.3 Members are asked to approve the revised Scheme of Delegation (attached as Appendix 1 to this report), which will replace in its entirety the current Scheme of Delegation.
- 3.4 Members are also asked to approve the inclusion of the Council's Procurement Procedures as a new appendix to Standing Orders (due to the size of the document it will be lodged in the Members' Library, June 2013 Bulletin).
- 3.5 If approved, the incorporation of the revised Scheme of Delegation and the Council's Procurement Procedures into Standing Orders will come into effect immediately.

#### **4 POLICY IMPLICATIONS**

- 4.1 None.

#### **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

#### **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – none
- 6.2 Personnel – none
- 6.3 Other – none

#### **7 BACKGROUND PAPERS**

- 7.1 None

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<b>DATE</b>	10 June 2013

## EAST LOTHIAN COUNCIL SCHEME OF DELEGATION

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### 1.0 General Duties and Responsibilities Delegated to Officers

- 1.1 The Council is entitled, under section 56 of the Local Government (Scotland) Act 1973, to delegate certain duties and responsibilities to committees, sub-committees or council officers.
- 1.2 Any officer acting on delegated authority must keep within any relevant, approved policies and procedures and the current budget of the Council when making decisions.
- 1.3 These policies and procedures include the following.
  - Standing orders
  - Financial regulations and Procurement Policies
  - The Council's human resources policies and procedures
  - Relevant plans and policies adopted by the Council
  - Approved budgets
  - National code of local government conduct
  - The Scottish Joint Committee's Councils Terms and Conditions for all employees working for local Councils
- 1.4 When acting on the authority delegated to them, officers must make sure that they consult the Chief Executive, the appropriate Executive Director, and the Head of Council Resources (as appropriate) about all sensitive or complex matters, or if they need advice or guidance. In particular, officers must get technical, construction, legal, financial and procurement advice.
- 1.5 Officers should consult local councillors if it appears that a proposed decision or action could directly affect a particular ward. This does not apply if the decision or action has a general effect on all wards.

### Further delegation

- 1.6 If duties and responsibilities have been delegated to an officer under this scheme, that officer may authorise any member of his or her staff to act for them. Where duties or responsibilities are delegated to a specific post holder that delegation will apply to anyone acting in that post on a temporary basis.
- 1.7 Officers delegating powers must consider the role of the officer they intend to delegate those powers to and whether the officer has appropriate qualifications and experience. Any officer using delegated powers will be responsible to the Council for their actions. However, if an officer delegates their powers to another officer, this will not relieve the delegating officer of his or her responsibility for the duties they have delegated. Officers should make sure any delegation of statutory powers and duties is recorded in writing.

### Limits on delegated powers

- 1.8 This scheme does not allow the following matters to be delegated to officers.
  - 1.8.1 Matters that must be considered by the full council or a committee or sub-committee.
  - 1.8.2 Matters not covered by this scheme of delegation.

1.8.3 Matters which, by law, cannot be delegated to an officer.

#### Conflict of Interest

1.9 If someone applying for a Council service is a Councillor or a Council employee, before making a decision on the application the officer should consider whether they need to consult the Monitoring Officer, who will decide whether the application should be referred to the full Council or an appropriate committee.

#### Job applications

1.10 If a job applicant is a relative of either a Councillor or a Council employee, before making a decision on the application officers must consider whether they need to consult the Head of Council Resources who will decide if the application should be referred to Council

#### Financial Limits

1.11 Officers shall have delegated authority to incur expenditure on behalf of the Council, including the signing of contracts and agreements to this effect, in accordance with Council policy, procurement procedures and other relevant financial procedures, as approved within the Council's Financial Regulations. All such expenditure must be within the authorised estimates of the expenditure of the Council as a whole.

## **2.0 Specific Duties And Responsibilities Delegated To The Chief Executive**

2.1 The Chief Executive has overall authority over all other officers and has the powers he or she needs to do the following:

- a) Efficiently manage the Council's responsibilities and performance in carrying out its roles, including the delegation of roles and remits to Executive Directors.
- b) Set up proper decision-making and consultative forums for senior officers.
- c) Give professional advice in the decision-making process.
- d) Take the action considered necessary to meet any of the Council's objectives (within the limitations of this scheme of delegation).
- e) Review the chief officer organisational structure, and recommend any changes to the Council.
- f) Review the Council's administration and management arrangements and, where appropriate, make any changes necessary to improve how services are provided.
- g) Maintain good working relationships within the Council and promote effective partnership working with organisations outside the Council, including through community planning.
- h) Maintain a Council plan and make sure all services keep to its requirements.
- i) Have overall responsibility for carrying out the Council's role relating to emergency planning.
- j) Authorise action, and agree spending in emergencies or disasters

## **2.2 Workforce Issues**

The Chief Executive is also authorised to do the following, after consultation with the Head of Council Resources:

- a) To appoint after consultation with the Leader, Provost, and Elected Member Departmental Spokesperson, an Acting Executive Director or Head of Service from the staff of the Council when the postholder is likely to be absent for more than 2 months, or the post is vacant
- b) In conjunction with the Head of Council Resources, and with the approval of the Provost and Leader, to agree severance terms with any Chief Officer whereby the Chief Officer in question agrees to terminate their contract of employment with the Council
- c) To approve special leave without pay for Executive Directors in accordance with the provisions of the appropriate scheme of salaries and conditions of service and any guidelines issued by the Council
- d) To be responsible for disciplinary action against Chief Officers, up to final written warnings
- e) To suspend any Executive Director or Head of Service (after consultation with the appropriate Executive Director) from duty on full pay, always subject to any appropriate statutory provisions and to reporting the suspension to the Cabinet as soon as practicable
- f) To approve grades for all Executive Directors and Heads of Service in consultation with the Leader of the Council

### 2.3 **Strategic Management**

The Chief Executive will make proper arrangements for the strategic management (the overall management of Council activities) of the Council, particularly the following.

- a) Making sure Council policies are put into practice.
- b) Making sure all parts of the Council follow policies in a consistent way.
- c) Reviewing how efficient and effective the Council's management and administrative systems are.
- d) Managing and developing the workforce.
- e) Interpreting Council policy if queries arise, in consultation with the Leader.
- f) Securing the efficient and effective implementation of the Council's programmes and policies, the deployment of resources towards that end, and the maintenance of internal and external relations.
- g) Implementing and monitoring general policies adopted by the Council.
- h) Providing advice and guidance to the Council on policy options.

### **3.0 General Duties Delegated to Executive Directors**

- 3.1 Executive Directors can delegate duties to Heads of Service within the remit as delegated to them by the Chief Executive, depending on the particular Head's suitability, qualifications and experience.
- 3.2 The Executive Directors have overall responsibility for the following:
- a) Using approved resources as they think fit for carrying out their duties.
  - b) Co-ordinating and managing their services.
  - c) Reviewing the performance of services and developing services.
  - d) Delegating duties under the Standing Orders relating to contracts entered into and issuing orders for providing goods and services in accordance with Section 1.11 – Financial Limits.
  - e) Transferring amounts between budgets in their control.
  - f) Delegating duties as set out in our financial regulations, for normal working practices.
  - g) Authorising the payment of bills for goods and services received in accordance with Section 1.11 – Financial Limits.
  - h) Advising the Head of Council Resources about any unusual financial obligations that will affect the Council.
  - i) Making sure the services comply with EU and UK statutory or legal requirements.
  - j) Responding to consultation documents within the set time limit, where appropriate.
  - k) Organising safe working procedures and processes within the current health and safety policies.
  - l) Maintaining proper security for staff, buildings, stocks, stores, furniture, equipment and similar items (if special arrangements are needed there should be consultation with the Head of Council Resources and the Head of Infrastructure).
  - m) Making sure Council policies and procedures are consistent and are followed

## **4.0 General Delegations to Heads of Service**

- 4.1 Authority delegated to Executive Directors may then be delegated on to Heads of Service.
- 4.2 Heads of Service must make sure that they comply with:
- relevant laws, guidance and codes of practice;
  - the procedural rules of their service;
  - the Council's Procurement Procedures and financial regulations;
  - the Council's Standing Orders;
  - the Council's human resources policies and procedures;
  - all relevant plans and policies we have adopted;
  - all other approved codes and procedures;
  - the approved budget;
  - the approved service plan(s); and
  - the rules on access to information, data protection and freedom of information.
- 4.3 They must set and maintain service standards to meet the Council's priorities.
- 4.4 When carrying out the duties delegated to them, Heads of Service must consult other officers if their actions will affect the responsibilities of another Head of Service. Where it is not clear which Head of Service has responsibility for a particular action or decision, the decision of the Chief Executive shall be final on the matter.
- 4.5 Where a Head of Service has been delegated authority, he or she may authorise any member of his or her staff to act on their behalf. Any Head of Service using delegated authority will be fully responsible to the Council for their actions and those of any officer they delegate the duties to.
- 4.6 Heads of Service have delegated responsibility for the following.
- a) Putting individual business plans into place and providing services set out in this Scheme of Delegation.
  - b) Spending the approved budget appropriate to the services they manage.
  - c) Applying for and accepting grants or a challenge fund, as long as these do not give rise to future financial commitments that the Council has to meet, or do not need the Council to provide equal funding that cannot be met from existing budgets.
  - d) Managing their services within the Council's policies.
  - e) Buying in supplies and services in accordance with Section 1.11 – Financial Limits.
  - f) Entering into contracts in accordance with Section 1.11 – Financial Limits.
  - g) Promoting, marketing or presenting events.
  - h) Managing and developing the workforce within their service areas.
  - i) Contributing to the development of corporate policies and procedures through the Council Management Team.
  - j) Setting charges and fees to make sure the needs of the budget are met.
  - k) Authorising the production of publications relating to the services being provided.
  - l) Serving statutory notices relating to the services being provided.
  - m) Taking enforcement action when required relating to the service being provided.
  - n) Suspending any employee in consultation with the Head of Council Resources
  - o) Generally making all operational decisions relating to the services being provided
  - p) Accepting the lowest or best value tender where the value or estimated value of the contract is in accordance with the Council's procurement procedures.



- q) Reviewing the Council's actions and decisions and dealing with requests for information under the Freedom of Information (Scotland) Act 2002.

## **5.0 Specific Duties And Responsibilities Delegated To Executive Directors & Heads of Service**

### **Support Services**

#### Specific responsibilities delegated to the Heads of Service in Support Services

- 5.1 Providing administrative support to the Council and Council committees.
- 5.2 Election administration (in line with instructions from the Returning Officer).
- 5.3 Organising and running civic ceremonies.
- 5.4 Providing support services for Councillors.
- 5.5 Providing legal services to the Council and Council services.
- 5.6 Running the Area Support Team (Children's Hearings System) and providing support services to the Children's Panel.
- 5.7 Making sure the Council complies with the Data Protection, Freedom of Information and Regulation of Investigatory Powers (Scotland) Act 2000.
- 5.8 Making arrangements for receiving and holding tenders, in line with the Council's Procurement Procedures.
- 5.9 Registering births, deaths and marriages.
- 5.10 Delivering, managing and promoting library, community and museum services.
- 5.11 Charging fees for providing library services in line with Council policies.
- 5.12 Managing public trusts (financial arrangements).
- 5.13 Providing policy support to the Council and its services.
- 5.14 Community planning.
- 5.15 Providing support to Community Councils.
- 5.16 Managing, developing and promoting arts programmes.
- 5.17 Running a system for charging people to take part in arts and community programmes and for helping to fund these, in line with Council policies.
- 5.18 Encouraging the development of training opportunities in the community.
- 5.19 Liaising and co-operating with institutions of further and higher education, voluntary organisations, enterprise companies and other appropriate agencies to develop training and adult education.
- 5.20 Setting appropriate charges for adult education classes.
- 5.21 Deciding on the level of grants to individuals and organisations within the community, up to a maximum decided by the Council.
- 5.22 Running the corporate complaints procedures.
- 5.23 Providing communication services and dealing with the media.
- 5.24 Billing and collection of Council Tax and National Non-Domestic Rates.
- 5.25 Obtaining warrants and charges for unpaid Council Tax and National Non-Domestic Rates.
- 5.26 Billing and collection of domestic water and sewerage charges on behalf of Scottish Water
- 5.27 Billing and collecting house and garage rent
- 5.28 Processing applications for Housing Benefit, the Council Tax Reduction Scheme and the Scottish Welfare Fund
- 5.29 Providing for bad debt.
- 5.30 Accounting and budgeting.

- 5.31 Revenues (all sources of income).
- 5.32 Paying invoices.
- 5.33 Payroll (systems to make sure employees are paid correctly and that accurate returns to HM Revenue & Customs are provided).
- 5.34 Managing the loans fund.
- 5.35 Managing finance and operating leases (legal agreements).
- 5.36 Borrowing and lending funds to meet the Council's needs.
- 5.37 Arranging the insurance the Council needs.
- 5.38 Maintaining complete and wide-ranging HR management policies and procedures.
- 5.39 Promoting equal opportunities.
- 5.40 Providing advice on corporate and organisational development.
- 5.41 Keeping to health and safety laws and following good practice.
- 5.42 Setting up and maintaining the Council's systems for planning services and managing performance.
- 5.43 Maintaining electronic records and exchanging information with partners the Council works with.
- 5.44 Improving customer service.
- 5.45 Corporate communications.
- 5.46 Introducing and maintaining procurement policies and procedures.
- 5.47 Managing information technology services provided to the council and ensuring that all information technology-related goods are purchased through the IT Service.
- 5.48 Providing an internal audit of our services.
- 5.49 Settling individual insurance claims up to a maximum of £100,000
- 5.50 Investigating fraud.
- 5.51 Managing community centres and museums.
- 5.52 Carrying out the Council's civic government licensing role under the Civic Government (Scotland) Act 1982.
- 5.53 Providing East Lothian Licensing Board with such services (including the provision of a Clerk and Depute Clerk(s)) as are required to carry out their alcohol and gambling licensing functions under the Licensing (Scotland) Act 2005 and the Gambling (Scotland) Act 2005.
- 5.54 Providing administrative support to the Local Licensing Forum
- 5.55 Delivering Leisure Services, in conjunction with enjoy East Lothian Limited
- 5.56 In accordance with any relevant approved Council policies, determining appropriate interim responsibility payments up to 10% of current salary to reflect significant additional responsibilities undertaken in respect of major developments and initiatives
- 5.57 Authorising emergency financial aid to employees of up to [£200]
- 5.58 Creating an overall strategy and policy for the Council that sets clear objectives and commitments in relation to Health, Safety and Wellbeing
- 5.59 Developing and implementing a health and safety management system to ensure that the Council is fulfilling its statutory requirements
- 5.60 Ensuring that the Council provides necessary resources, support and guidance to managers and employees to enable them to work in an environment that controls risks to their health, safety and well-being as far as reasonably practicable.
- 5.61 Ensuring through the line management structure that all approved Council policies are being followed to ensure the health, safety and well-being of employees and non-employees.
- 5.62 Giving the Council and its services advice on European funding and policies

## **6.0 Specific Duties and Responsibilities Delegated to Executive Directors & Heads of Service**

### **Services for Communities**

#### Specific responsibilities delegated to the Heads of Service

- 6.1 Carrying out our duties as a planning authority under all planning legislation
- 6.2 Making decisions on planning applications and enforcing planning laws, subject to the Protocol set out in Section 9 of this Scheme of Delegation
- 6.3 Giving the Council advice on land use and planning matters.
- 6.4 Preparing, introducing, monitoring and reviewing the development plan.
- 6.5 Monitoring planning permission and other permissions, and taking enforcement action under Part V1 and V11 of the 1997 Act, including serving notices, taking direct action and prosecuting people for not keeping to such notices.
- 6.6 Providing screening and scoping options under the Environmental Assessment (Scotland) Act 2005 and the Town and Country Planning (Scotland) Environmental Impact Assessment (Scotland) Regulations 2011.
- 6.7 Determining requests to undertake work to trees that are either protected by a Tree Preservation Order or are within a Conservation Area.
- 6.8 Providing the Council's view as planning authority on planning applications and other consultations from the SESplan planning authorities and the Scottish Government.
- 6.9 Providing new developments with street names and numbers, determining requests for address changes and, where necessary, reviewing/amending addresses.
- 6.10 Determining applications for grant assistance under a Conservation Area Regeneration Scheme.
- 6.11 Carrying out the Council's duties under the terms of the Building (Scotland) Acts and related laws.
- 6.12 Managing the powers the Council has under the relevant sections of the Civic Government (Scotland) Act 1982,
- 6.13 Carrying out the Council's duties under the Safety of Sports Grounds Act 1975.
- 6.14 Carrying out the Council's duties and responsibilities in terms of the Housing (Scotland) Acts and related legislation in relation to private sector housing, including licensing 'Houses in Multiple Occupation' and registering private landlords under section 84 of the Anti-Social Behaviour Act 2004.
- 6.15 Carrying out the Council's duties under the Environmental Protection Act and any regulations or orders made under it
- 6.16 Carrying out the Council's duties under the Burial Grounds (Scotland) Act 1855 to provide and manage burial grounds.
- 6.17 Carrying out the Council's duties and exercising powers under The Land Reform (Scotland) Act 2003.
- 6.18 Carrying out the Council's duties under trading standards and consumer protection laws
- 6.19 Carrying out duties as the local weights and measures authority
- 6.20 Carrying out duties as the petroleum licensing authority
- 6.21 Carrying out the Council's duties relating to public health and related matters
- 6.22 Carrying out the Council's duties and responsibilities as Food Authority under the Food Safety Act 1990, Agriculture Act 1970 and other legislation

- 6.23 Carrying out the Council's duties in relation to enforcement of Health & Safety legislation
- 6.24 Carrying out the Council's duties and responsibilities in relation to the registration, monitoring and improvement of private water supplies
- 6.25 Carrying out the Council's duties and responsibilities in relation to the Licensing of Caravan Sites.
- 6.26 Carrying out the Council's duties and responsibilities in relation to smoke free/tobacco control legislation
- 6.27 Managing the Council's roles and responsibilities relating to the following:
  - Land services
  - Public conveniences and amenity services
  - Public transport
  - Street lighting and street care
  - Transport and fleet management
  - Other responsibilities we have in relation to environmental services
- 6.28 Carrying out the Council's duties as a roads authority
- 6.29 Running the concessionary-fares scheme for public transport.
- 6.30 Agreeing terms for purchasing the heritable property (land and buildings) needed for any of the Council's where this action is within the approved capital programme.
- 6.31 Agreeing settlements for compensation claims under the Land Compensation (Scotland) Acts and related laws when the total cost is within the amount approved by the Council for such claims.
- 6.32 Settling claims for professional fees and costs in connection with buying and selling land, and compensation claims of up to £15,000.
- 6.33 Agreeing terms for granting or taking 'minutes of waiver', and for granting or taking 'wayleaves' or 'servitude rights'.
- 6.34 Agreeing terms for granting, taking or renewing leases and tenancies of land or buildings, within the limits of the relevant budget.
- 6.35 Agreeing all matters arising from leasing a property, including reviewing rents and granting permission for transferring leases, sub-lettings, change of use and alterations, ending leases, evicting tenants from our properties, and recovering overdue rent and other charges.
- 6.36 Agreeing terms to dispose of property where the property has been advertised for sale. If the highest offer is not to be accepted or the property is to be sold without having been advertised for sale, the matter is referred to Cabinet
- 6.37 Managing and supervising performance of services relating to environment and engineering contracts.
- 6.38 Managing and supervising building, cleaning and catering services.
- 6.39 Provide the following services:-
  - Asset Management
  - Estates Management
  - Architecture and Design
  - Cost Planning and Procurement of Capital Works
  - Mechanical and Electrical Engineering
  - Property Maintenance and Energy Services
  - Asbestos Management
- 6.40 Managing the HRA budget

- 6.41 Meeting the Scottish Housing Quality Standard by for all of our housing.
- 6.42 Managing housing services for council tenants in line with housing laws and council policies.
- 6.43 Letting council houses.
- 6.44 Assessing homelessness and managing the assessment process.
- 6.45 Managing temporary tenancies.
- 6.46 Arranging property provided to homeless clients on a temporary basis, arranging support services, furnishings and transfers to permanent accommodation.
- 6.47 Providing a Local Housing Strategy.
- 6.48 Taking assessed referrals of vulnerable homeless people and in conjunction with Social Services providing support services for vulnerable homeless people to standards set by the Scottish Commission for the Regulation of Care.
- 6.49 Making sure that Homeless Services meet the standards laid down by the Scottish Government.
- 6.50 Developing the common housing register.
- 6.51 Carrying out a range of duties in relation to antisocial behaviour, community safety and homelessness, asylum and immigration, including out of hours service provision.
- 6.52 Authorising expenses, under the Housing Act 1994, to people who are old, disabled or in poor health.
- 6.53 Making sure local housing support services meet the standards set locally and by the Scottish Commission for the Regulation of Care.
- 6.54 In conjunction with Social Services, putting in place the parts of the Community Planning framework aimed at regeneration providing housing solutions in those areas and supporting work between partners.
- 6.55 Carrying out the Council's duties in relation to the Climate Change (Scotland) Act requirements.
- 6.56 Supporting and arranging a Care and Repair Programme in conjunction with Social Services.
- 6.57 Addressing the demand for 'Housing Renewal Areas', the Tolerable Standard, the Scottish Housing Quality Standard, repairing standards, repairing standards maintenance and repairing orders, conversions and improvements.
- 6.58 Ensuring that buildings and land under Council control comply with appropriate statutory, regulatory and corporate standards.
- 6.59 Leading and developing the strategy for housing in the area and monitoring and assessing the outcome.
- 6.60 Processing tenants' applications to buy their home under the 'Right to Buy' scheme.

## **7.0 Specific Duties and Responsibilities Delegated to Directors and Heads of Service**

### **Services for People**

#### Specific responsibilities delegated to Heads of Service

- 7.1 Provide guidelines and existing/current policies in response to Scottish Government and other consultations on the curriculum, develop the curriculum, and carry out associated work.
- 7.2 Administer appropriate charges as set by the Council for music lessons and similar services.
- 7.3 Make arrangements for placing children with extra support needs in schools (including, where appropriate, residential schools) not managed by the Council.
- 7.4 Approve co-ordinated support plans for individual pupils.
- 7.5 Consider requests for placing in schools from parents whose children, including those with special educational needs, might not be admitted to schools of their choice; and for their child's early admission to primary school.
- 7.6 Provide an educational psychology service.
- 7.7 Make arrangements for entering pupils for public examinations.
- 7.8 Pay fees and other costs (as necessary) in connection with public examinations.
- 7.9 Carry out the Council's legal duties relating to pre-school children with extra support needs.
- 7.10 Offer places, in line with criteria agreed by the Council, in nurseries and family centres managed by the Council.
- 7.11 Provide for, in accordance with resources available to the Council, out of school care and similar services.
- 7.12 Set appropriate charges for pre-school services in the Council area.
- 7.13 Decide how the educational trust run by the Council will distribute their funds in line with the relevant trust schemes.
- 7.14 Carry out the Council's duties relating to managing, assessing and awarding higher school bursaries.
- 7.15 Make arrangements for school catchment areas to be agreed and pupils to be transferred from primary school to secondary school.
- 7.16 Approve the involvement of teaching staff in recognised programmes outwith the UK.
- 7.17 Approve applications (from head teachers or suitably qualified youth workers employed by the Council) for permission for staff to accompany groups of school pupils or other young people on recognised exchanges or excursions outwith the UK.
- 7.18 Be responsible for carrying out the duties of the Council imposed by statute pertaining to their areas of responsibility or the subject of the specific delegations of authority by the Council
- 7.19 Enter into contracts with private and voluntary agencies for carrying out the Council's duties under the National Health Service and Community Care Act 1990.
- 7.20 Make decisions, in consultation with the Council's Section 95 Officer, on applications for changing maintenance rates for private or voluntary homes not covered by the National Health Service and Community Care Act 1990.
- 7.21 Take responsibility for the provision of Children and Families and Early Years services.

- 7.22 Set fees for curators ad litem, safeguarders, foster parents and community carers.
- 7.23 In line with government guidelines, ensure maintenance of the Child Protection Register of children in need of protection from abuse.
- 7.24 Make decisions on formal complaints.
- 7.25 Take responsibility for providing Community Care Services including assessments of needs and the care to meet these assessed needs.
- 7.26 Take responsibility for arrangements for Community Care Services.
- 7.27 Co-operate with the local Community Justice Authorities to promote best practice in providing Criminal Justice Services.
- 7.28 Secure appropriate resources from the Community Justice Authorities in connection with providing Community Justice Services.
- 7.29 Work with the Community Justice Authority partners to pool resources and work together in the best interests of the Council's Criminal Justice Services.



## 8.0 Statutory Appointments of Officers

8.1 Under various laws we must appoint officers for a variety of purposes. Officers appointed to perform these roles are authorised to take the actions that are an essential part of their roles. The 'statutory appointments' that the Council has made are set out in this section.

Relevant Law	Role	Proper Officer
<b>Social Work (Scotland) Act 1968</b>		
Section 3	Chief Social Work Officer	Head of Adult Wellbeing
<b>Local Government (Scotland) Act 1973</b>		
Section 33a	Proper officer for receiving councillors' declarations that they accept their role (declaration of acceptance of office)	Chief Executive
Section 33a(3)	Officer the declaration of acceptance of office can be made to	Chief Executive
Section 34	Proper officer for receiving councillors' resignations	Chief Executive
Section 40	Proper officer for receiving general notices from councillors about any financial interest in a matter, and for recording the councillors' interests	Monitoring Officer
Section 43 and paragraph 1 (4) of schedule 7	Proper officer for receiving requests for special council meetings	Chief Executive
Section 43 and paragraph 2 (1) of schedule 7	Proper officer for signing summonses to special council meetings	Chief Executive
Section 43 and paragraph 2 (2) of schedule 7	Proper officer for receiving a councillor's notice of an alternative address	Head of Council Resources
Section 50b	Proper officer for preventing reports containing sensitive information from being available to the public, and for providing documents to the press	Chief Executive/Director in consultation with Head of Council Resources
Section 50c	Proper officer for providing a written summary when the minutes of a meeting cannot be made available to the public	Head of Council Resources
Section 50f	Proper officer for deciding which documents are not open to inspection	Chief Executive/Director in consultation with Head of Council Resources
Section 92	Proper officer for transferring securities	Executive Director (Support Services)
Section 95	Proper officer for managing our financial affairs	Head of Council Resources
Section 145	Proper officer for asking Ordnance Survey for information	Executive Director (Services to Communities)

Section 190	Proper offices for serving notices on behalf of the council and starting legal proceedings	Chief Executive/ Heads of Service /Corporate Legal Advisers
Section 191	Proper officer for signing any claim on behalf of the council in any sequestration (property taken from the owner to cover a debt or to keep to a court order), liquidations (where assets are sold off to help repay debts) and similar proceedings where we are entitled to make a claim	Chief Executive/Executive Director (Support Services)/Corporate Legal Advisers in consultation with Head of Council Resources
Section 193	Proper officer for signing notices, orders and so on	The Executive Director/Head of Service responsible for the service of the notice, order and so on relates to in consultation with Corporate Legal Advisers
Section 194	Proper officer for signing deeds and using the council's seal	Chief Executive Corporate Legal Advisers
Section 197	Proper officer for arranging for documents to be inspected and filed	Head of Council Resources
Section 202	Proper officer for confirming that byelaws are valid and for sending copies to other relevant authorities	Corporate Legal Advisers
Section 202B	Proper officer for putting valid byelaws in the register of byelaws	Corporate Legal Advisers
Section 204	Proper officer for providing certificates as evidence of byelaws	Corporate Legal Advisers
Section 206	Proper officer for keeping a register of people who are made 'freemen' of the area	Head of Council Resources
Section 231	Proper officer for asking the Sheriff about matters arising from the Local Government (Scotland) Act 1973	Chief Executive/Executive Director in consultation with Corporate Legal Advisers
<b>Licensing (Scotland) Act 2005</b>		
Paragraph 8(1) (a) of Schedule 1	Clerk to the Licensing Board	Corporate Legal Adviser
<b>Civic Government (Scotland) Act 2005</b>		
Section 113	Proper officer for keeping evidence of management rules	Head of Council Resources
<b>Ethical Standards in Public Life Etc (Scotland) Act 2000 (Register of Interests) Regulations 2003</b>		
Section 7(1)	Proper officer for setting up and keeping the register of councillors' business,	Monitoring Officer

	personal and financial interests, and making these available to the public	
<b>Representation of the People Act 1983</b>		
Section 41	Returning Officer	The person appointed by the Council, presently postholder of Chief Executive
<b>Weights and Measures Act 1985</b>		
Section 72(1)(a)	Chief inspector of weights and measures	Executive Director (Services to Communities)
<b>Local Government and Housing Act 1989</b>		
Section 2	Proper officer for keeping lists of posts that are politically restricted (limited activities)	Head of Council Resources
Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Executive Director (Services to Communities)
Section 19	Proper officer for receiving notices of councillors' business, personal and financial interests and keeping records of them	Head of Council Resources
<b>Environmental Protection Act 1990</b>		
Section 149 (1)	Officer appointed to carry out our role of dealing with stray dogs in the area	Executive Director (Services to Communities)
<b>Local Authorities (Contracts) (Scotland) Regulations 1997</b>		
Regulation 4	Proper officer for certification purposes (powers to enter into a contract or other matters)	Head of Council Resources
<b>The Scottish Local Government Elections Order 2007</b>		
Rule 57	Proper officer for receiving all election-related documents after an election	Chief Executive
<b>The Regulation of Investigatory Powers (Scotland) Act 2002</b>		
Section 6	Authorising Officer Directed Surveillance	Chief Executive

Section 7	Authorising Officer Covert Human Intelligence Sources	Chief Executive
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8.2 The proper officers appointed for the roles set out in part 8.1 cannot delegate their duties to other officers. However, if they cannot carry out their delegated duties because they are not available, the following officers will carry out their duties:-

<b>Proper officer appointed for the roles set out in part 8.1</b>	<b>Officer who will carry out duties if the proper officer is not available</b>
If the Returning Officer is not available for election purposes	Depute Returning Officer
If the Executive Director of Services for Communities is not available to act as the Monitoring Officer	Corporate Legal Advisers
If an Executive Director is not available to act as an officer	The relevant Head of Service
If the Corporate Legal Adviser is not available to act as Clerk to the Licensing Board	Senior Solicitor
If the Chief Executive is not available to act as the Head of Paid Service	Executive Director as agreed
If the Head of Adult Wellbeing is not available to act as the Chief Social Work Officer	Children's Wellbeing and Adult Wellbeing Service Managers

## **9.0 Scheme of Delegation for Planning Applications**

### **9.1 Decisions in relation to planning applications**

- a. Delegated Decisions - 'Local Developments' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008, except for: -
- (i) Applications made by the planning authority;
  - (ii) Applications made by a member of the planning authority; or
  - (iii) Applications where the planning authority has an ownership or financial interest in the land that is the subject of the application:

shall be determined by the Service Manager, Development Management, who is the Appointed Officer, without reference to Members, subject to 9.1(b) below. Such determination shall include, where appropriate, authority for the Council to enter into any legal agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 or otherwise and authority for the Council to take enforcement action in instances where retrospective planning permission is refused for unauthorised development.

- b. Scheme of Delegation List - A list of reports on applications to be decided under delegated authority in terms of 9.1(a) above which raise important planning issues and/or are subject to any amount of public objection shall be circulated each week to Members, who then shall have seven days in which to request referral to the Planning Committee, otherwise the officer decision shall be issued by the Appointed Officer in terms of 9.1(a) above. The Member who has requested referral to the Planning Committee shall prepare the Statement of Reasons for issue by the Planning Authority giving the reasons why the Planning Committee and not the Appointed Officer, should determine the application.
- c. Reports to the Planning Committee – the following applications shall be reported to and determined by the Planning Committee:
- (i) Applications for 'National Developments' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008
  - (ii) Applications for 'Major Developments' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008
  - (iii) Applications for 'Local Developments' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008 where:
    - the application is made by the planning authority, or
    - the application is made by a member of the planning authority, or
    - where the planning authority has an ownership or financial interest in the land that is the subject of the application.
  - (iv) Applications referred by a Member or Members of the planning authority in terms of 9.1(b) above.

### **9.2 Decisions in relation to enforcement of planning control**

- a. Authority for service of Planning Contravention Notices and Breach of Condition Notices will be delegated to the Appointed Officer and will be reported for Members' information to the Members' Library.

- b. Committee Expedited List – reports recommending service of Enforcement Notices, Stop Notices and Notices under Section 179 (“Land Adversely Affecting Amenity of Neighbourhood”) of the Town and Country Planning (Scotland) Act 1997 shall be circulated each week to Members, who then shall have seven days in which to request referral to the Planning Committee, otherwise the officer recommendation is deemed to be accepted and the Appointed Officer shall be authorised to proceed on that basis.
- c. Reports to the Planning Committee – Notices, as set out in 9.2(b) above, referred by Members from the Committee Expedited List.

**9.3 Decisions in relation to the variation, modification or discharging of planning obligations**

- a. Authority to determine applications to vary, modify or discharge planning obligations, in terms of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010
- b. Authority to determine applications to vary modify or discharge Good Neighbour Agreements, in terms of the Town and Country Planning (Modification and Discharge of Good Neighbour Agreements) (Scotland) Regulations 2010.