

REPORT TO: East Lothian Council

MEETING DATE: 27 October 2015

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Amendments to Standing Orders – Scheme of Administration and Scheme of Delegation

1 PURPOSE

- 1.1 To seek approval of proposed changes to the Schemes of Administration for the Education Committee and Joint Consultative Committee, and to the Scheme of Delegation.

2 RECOMMENDATIONS

Council is asked:

- 2.1 to approve the proposed change to the Scheme of Administration for the Education Committee in relation to the quorum, as outlined in Section 3.1 of the report;
- 2.2 to approve the proposed changes to the Scheme of Administration for the Joint Consultative Committee in relation to an increase in Trades Union representation, as outlined at Section 3.2 of the report;
- 2.3 to approve the proposed changes to the Scheme of Delegation, as set out in Appendix 1 to the report.
- 2.4 to note that, if the proposed changes are approved, the Scheme of Administration and Scheme of Delegation will be updated and published on the Council's website as soon as practicable.

3 BACKGROUND

3.1 *Education Committee Scheme of Administration*

At its meeting of 27 August 2013, the Council approved a revised Scheme of Administration for the Education Committee, which stipulated that two of the four external representatives would be required for a meeting to be quorate. A situation arose in 2015 where a meeting of the Committee had to be abandoned as only one external representative was present. In addition, the representative of the Catholic Church, Michael McHugh, has recently intimated his intention to stand down from the Committee and his replacement has not yet been appointed. In light of these events, and to reduce the risk of future meetings being inquorate, it is proposed that the quorum for the Committee be changed from half plus one of Elected Members and two external representatives, to half plus one of all committee members (i.e. no specific quorum for external representatives).

3.2 *Joint Consultative Committee Scheme of Administration*

At the meeting of the Joint Consultative Committee (JCC) held on 2 September 2015, it was agreed that Council approval should be sought to increase the Joint Trades Unions membership from 13 to 14. The existing Scheme of Administration only allows for a representative on the JCC from either GMB or UCATT. Currently there is no representative from UCATT, which is the only Trades Union not to have a seat on the JCC. Increasing the membership by one would allow a representative from both GMB and UCATT to sit on the JCC. The JCC also seeks to amend the Scheme of Administration to remove reference to AMICUS, which has been subsumed by Unite.

3.3 *Scheme of Delegation*

Changes to the Scheme of Delegation are proposed in order to reflect the changes in Health and Social Care as a result of health and social care integration. These changes delegate the necessary authority to posts which have a joint remit across the Council and Health services and employees. The proposed changes are tracked on East Lothian Council's current Scheme of Delegation which is attached as Appendix 1.

4 POLICY IMPLICATIONS

4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the wellbeing 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 Report to Council on 25 August 2015 – Arrangements for Scrutiny of Police and Fire & Rescue Services
- 7.2 Report to Council on 27 August 2013 – Revisions to East Lothian Council Standing Orders

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DATE	6 October 2015

EAST LOTHIAN COUNCIL SCHEME OF DELEGATION

1.0 General Duties and Responsibilities Delegated to Officers (Including Jointly Appointed 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 Council's 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 Depute Chief Executive, Chief Officer East Lothian Health & Social Care Partnership 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.
- 1.6 Where a matter falls within the remit of more than one Head of Service and there is a dispute as to how the matter should be handled, the Chief Executive will have the final decision.
- 1.7 Notwithstanding the duties and responsibilities delegated to officers as set out in this Scheme of Delegation, Councillors retain the right to request to report to Council or Committee on any issue deemed to be of significant interest to Councillors and/or the wider public.

Further delegation

- 1.7 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.
- 1.8 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

- 1.9 This scheme does not allow the following matters to be delegated to officers:
 - 1.9.1 Matters that must be considered by the full Council or a committee or sub-committee
 - 1.9.2 Matters not covered by this Scheme of Delegation
 - 1.9.3 Matters which, by law, cannot be delegated to an officer

Conflict of Interest

- 1.10 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 Depute Chief Executives/Chief Officer East Lothian Health & Social Care Partnership
- 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) Make changes to the Council's Scheme of Delegation which arise as a result of changes to Council structures
- g) Review the Council's administration and management arrangements and, where appropriate, make any changes necessary to improve how services are provided
- h) Maintain good working relationships within the Council and promote effective partnership working with organisations outside the Council, including through community planning
- i) Maintain a Council Plan and make sure all services keep to its requirements
- j) Have overall responsibility for carrying out the Council's role relating to emergency planning
- k) 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)~~ a) To appoint after consultation with the Leader, Provost, and Elected Member Departmental Spokesperson, an Acting Depute Chief Executive, or Head of Service when the postholder is likely to be absent for more than 2 months, or the post is vacant
- ~~b)~~ b) To appoint after consultation with the Chief Executive NHS Lothian, Leader, Provost, and Chair of the Integrated Joint Board (IJB), an Acting Chief Officer East Lothian Health & Social Care Partnership when the postholder is likely to be absent for more than 2 months, or the post is vacant
- ~~b~~c) 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
- ~~e~~d) To approve special leave without pay for Depute Chief Executives/Chief Officer East Lothian Health & Social Care Partnership in accordance with the provisions of the appropriate scheme of salaries and conditions of service and any guidelines issued by the Council
- ~~d~~e) To be responsible for disciplinary action against Chief Officers, up to final written warnings
- ~~e~~f) To suspend any Depute Chief Executive or Head of Service (after consultation

with the appropriate Depute Chief Executive) from duty on full pay, always subject to any appropriate statutory provisions and to reporting the suspension to the Cabinet as soon as practicable

- g) To suspend the Chief Officer East Lothian Health & Social Care Partnership in consultation with the Chief Executive NHS Lothian from duty on full pay, always subject to any appropriate statutory provisions and to reporting the suspension to the IJB as soon as practicable
- fh) To approve grades for all Depute Chief Executives/ Chief Officer East Lothian Health & Social Care Partnership 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 Depute Chief Executives/ Chief Officer East Lothian Health & Social Care Partnership

3.1 Depute Chief Executives/ Chief Officer East Lothian Health & Social Care Partnership- 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 Depute Chief Executives/ Chief Officer East Lothian Health & Social Care Partnership-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 the Council's 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
- n) Providing an internal audit of Council services (Depute Chief Executive – Resources and People Services)
- o) 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.

4.0 General Delegations to Heads of Service

- 4.1 Authority delegated to Depute Chief Executives/ [Chief Officer East Lothian Health & Social Care Partnership](#) 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)
 - 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 and reviewing existing charges for Council services to make sure the needs of the budget are met (with the introduction of new charges being the responsibility of Cabinet).
 - 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
- r) Taking decisions on formal complaints about services
- s) 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.

5.0 Specific Duties and Responsibilities Delegated to the Head of Council Resources

- 5.1 Providing administrative support to the Council and Council committees
- 5.2 Providing 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 Appointing and re-appointing curators ad litem and reporting officers
- 5.8 Making sure the Council complies with the Data Protection, Freedom of Information and Regulation of Investigatory Powers (Scotland) Act 2000
- 5.9 Providing a records management and archive service
- 5.10 Making arrangements for receiving and holding tenders, in line with the Council's Procurement Procedures
- 5.11 Managing public trusts (financial arrangements)
- 5.12 Providing support to Community Councils
- 5.13 Billing and collection of Council Tax and National Non-Domestic Rates
- 5.14 Obtaining warrants and charges for unpaid Council Tax and National Non-Domestic Rates
- 5.15 Billing and collection of domestic water and sewerage charges on behalf of Scottish Water
- 5.16 Billing and collecting house and garage rent
- 5.17 Processing applications for Housing Benefit, the Council Tax Reduction Scheme and the Scottish Welfare Fund
- 5.18 Providing for bad debt
- 5.19 Accounting and budgeting
- 5.20 Administering revenues (all sources of income).
- 5.21 Paying invoices
- 5.22 Administering payroll systems to ensure employees are paid correctly and that accurate returns to HM Revenue & Customs are provided
- 5.23 Managing the loans fund
- 5.24 Managing finance and operating leases (legal agreements)
- 5.25 Borrowing and lending funds to meet the Council's needs
- 5.26 Arranging the insurance the Council needs
- 5.27 Maintaining complete and wide-ranging HR management policies and procedures
- 5.28 Introducing and maintaining procurement policies and procedures
- 5.29 Managing information technology services provided to the Council and ensuring that all information technology-related goods are purchased through the IT Service
- 5.30 Settling individual insurance claims up to a maximum of £100,000
- 5.31 Investigating fraud
- 5.32 Carrying out the Council's civic government licensing role under the Civic Government (Scotland) Act 1982
- 5.33 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

- 5.34 Carrying out the Council's duties and responsibilities in relation to the Licensing of Caravan Sites
- 5.35 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
- 5.36 Managing the powers the Council has under the relevant sections of the Civic Government (Scotland) Act 1982
- 5.37 Providing administrative support to the Local Licensing Forum
- 5.38 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
- 5.39 Authorising emergency financial aid to employees of up to £200.

6.0 Specific Duties and Responsibilities Delegated to the Head of Communities & Partnerships

- 6.1 Registering births, deaths, marriages and civil partnerships
- 6.2 Delivering, managing and promoting library, community and museum services
- 6.3 Managing community centres
- 6.4 Charging fees for providing library services in line with Council policies
- 6.5 Managing, developing and promoting arts programmes.
- 6.6 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.
- 6.7 Encouraging the development of training opportunities in the community
- 6.8 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
- 6.9 Setting appropriate charges for adult education classes
- 6.10 Providing policy support to the Council and its services
- 6.11 Promoting equal opportunities
- 6.12 Providing advice on corporate organisational development
- 6.13 Setting up and maintaining the Council's systems for planning services and managing performance
- 6.14 Developing community planning
- 6.15 Deciding on the level of grants to individuals and organisations within the community, up to a maximum decided by the Council
- 6.16 Giving the Council and its services advice on European funding and policies
- 6.17 Administering the Council's corporate complaints process
- 6.18 Providing communication services and dealing with the media
- 6.19 Improving customer service
- 6.20 Creating an overall strategy and policy for the Council that sets clear objectives and commitments in relation to Health, Safety and Wellbeing
- 6.21 Developing and implementing a health and safety management system to ensure that the Council is fulfilling its statutory requirements
- 6.22 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
- 6.23 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.
- 6.24 Agreeing terms for the transfer of properties to and from the Housing Revenue Account
- 6.25 Managing the HRA budget
- 6.26 Meeting the Scottish Housing Quality Standard by 2015 for all of the Council's housing
- 6.27 Managing housing services for Council tenants in line with housing laws and Council policies
- 6.28 Letting Council houses
- 6.29 Assessing homelessness and managing the assessment process
- 6.30 Managing temporary tenancies

- 6.31 Arranging property provided to homeless clients on a temporary basis, arranging support services, furnishings and transfers to permanent accommodation
- 6.32 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
- 6.33 Making sure that Homeless Services meet the standards laid down by the Scottish Government
- 6.34 Developing the common housing register
- 6.35 Carrying out a range of duties in relation to antisocial behaviour, community safety and homelessness, asylum and immigration, including out-of-hours service provision
- 6.36 Authorising expenses, under the Housing Act 1994, to people who are old, disabled or in poor health
- 6.37 Making sure local housing support services meet the standards set locally and by the Scottish Commission for the Regulation of Care
- 6.38 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
- 6.39 Supporting and arranging a Care and Repair Programme in conjunction with Social Services.
- 6.40 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
- 6.41 Leading and developing the strategy for housing in the area and monitoring and assessing the outcome
- 6.42 Processing tenants' applications to buy their home under the 'Right to Buy' scheme.

7.0 Specific Duties and Responsibilities Delegated to the Head of Development

- 7.1 Carrying out the Council's duties as a planning authority under all planning legislation
- 7.2 Making decisions on planning applications and enforcing planning laws, subject to the Protocol set out in Section 13 of this Scheme of Delegation
- 7.3 Giving the Council advice on land use and planning matters
- 7.4 Preparing, introducing, monitoring and reviewing the development plan
- 7.5 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
- 7.6 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
- 7.7 Determining requests to undertake work to trees that are either protected by a Tree Preservation Order or are within a Conservation Area
- 7.8 Providing the Council's view as planning authority on planning applications and other consultations from the SESplan planning authorities and the Scottish Government
- 7.9 Providing new developments with street names and numbers, determining requests for address changes and, where necessary, reviewing/amending addresses
- 7.10 Determining applications for grant assistance under a Conservation Area Regeneration Scheme
- 7.11 Carrying out the Council's duties under the terms of the Building (Scotland) Acts and related laws
- 7.12 Managing the powers the Council has under the relevant sections of the Civic Government (Scotland) Act 1982
- 7.13 Carrying out the Council's duties under the Safety of Sports Grounds Act 1975
- 7.14 Carrying out the Council's duties and exercising powers under The Land Reform (Scotland) Act 2003
- 7.15 Carrying out the Council's duties under trading standards and consumer protection laws
- 7.16 Carrying out duties as the local weights and measures authority
- 7.17 Carrying out duties as the petroleum licensing authority
- 7.18 Carrying out the Council's duties relating to public health and related matters
- 7.19 Carrying out the Council's duties and responsibilities as Food Authority under the Food Safety Act 1990, Agriculture Act 1970 and other legislation
- 7.20 Carrying out the Council's duties in relation to enforcement of Health & Safety legislation
- 7.21 Carrying out the Council's duties and responsibilities in relation to the registration, monitoring and improvement of private water supplies
- 7.22 Carrying out the Council's duties and responsibilities in relation to smoke free/tobacco control legislation
- 7.23 Carrying out the Council's duties in relation to the Climate Change (Scotland) Act requirements
- 7.24 Carrying out the Council's duties under the Environmental Protection Act and any regulations or orders made under it
- 7.25 Managing the Council's roles and responsibilities in relation to environmental services

- 7.26 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
- 7.27 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
- 7.28 Settling claims for professional fees and costs in connection with buying and selling land, and compensation claims of up to £15,000
- 7.29 Agreeing terms for granting or taking 'minutes of waiver', and for granting or taking 'wayleaves' or 'servitude rights'
- 7.30 Agreeing terms for granting, taking or renewing leases and tenancies of land or buildings, or such other agreements relating to the use of land and buildings, within the limits of the relevant budget
- 7.31 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 Council-owned properties, and recovering overdue rent and other charges
- 7.32 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
- 7.33 Agreeing terms for the disposal of small areas of open space ground on the Housing Revenue Account or managed by Landscape & Countryside, where such areas are not advertised for sale
- 7.34 Declaring property surplus to requirements and placing on the market for sale
- 7.35 Agreeing terms for an excambion of land required for any of the Council's functions where this action is within the approved capital programme
- 7.36 Providing a Local Housing Strategy
- 7.37 Leading and developing the strategy for housing in the area and monitoring and assessing the outcome
- 7.38 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
- 7.39 Taking decisions on new build housing locations and costs
- 7.40 Leading, managing and carrying out the Council's duties and responsibilities in relation to economic development and housing investment
- 7.41 Taking decisions in relation to grants for economic development activities, to both the private and third sectors
- 7.42 Managing and supervising performance of services relating to environment and engineering contracts
- 7.43 Ensuring that buildings and land under Council control comply with appropriate statutory, regulatory and corporate standards
- 7.44 Provide the following services:-
 - Asset Management
 - Estates Management
 - Architecture and Design
 - Cost Planning and Procurement of Capital Works
 - Mechanical and Electrical Engineering
 - Energy Services

- Asbestos Management
- Development Management
- Development Planning
- Environmental Protection
- Food Standards
- Trading Standards

8.0 Specific Duties and Responsibilities Delegated to the Head of Infrastructure

- 8.1 Carrying out the Council's duties under the Burial Grounds (Scotland) Act 1855 to provide and manage burial grounds
- 8.2 Managing the Council's roles and responsibilities relating to land services
- 8.3 Providing public conveniences and amenity services
- 8.4 Providing street lighting and street care
- 8.5 Carrying out the Council's duties in relation to transport and fleet management
- 8.6 Carrying out the Council's duties as a roads authority
- 8.7 Carrying out the Council's duties in relation to public transport
- 8.8 Administering the concessionary fares scheme for public transport
- 8.9 Delivering Leisure Services, in conjunction with enjoy East Lothian Limited
- 8.10 Managing the sports development service
- 8.11 Managing the powers the Council has under the relevant sections of the Civic Government (Scotland) Act 1982
- 8.12 Managing the property maintenance service
- 8.13 Managing and supervising building, cleaning and catering services
- 8.14 Managing mailroom and security services
- 8.15 Delivering waste services
- 8.16 Managing the maintenance of harbours
- 8.17 Providing landscape and countryside services.

9.0 Specific Duties and Responsibilities Delegated to the Head of Education

- 9.1 Providing guidelines and existing/current policies in response to Scottish Government and other consultations on the curriculum, developing the curriculum, and carrying out associated work
- 9.2 Making arrangements for placing children with additional support needs in schools (including, where appropriate, residential schools) not managed by the Council
- 9.3 Considering 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
- 9.4 Taking responsibility for the provision of Early Years services
- 9.5 Providing an educational psychology service
- 9.6 Approving co-ordinated support plans for individual pupils
- 9.7 Carrying out the Council's legal duties relating to pre-school children with extra support needs
- 9.8 Offering places, in line with criteria agreed by the Council, in nurseries and family centres managed by the Council
- 9.9 Providing for, in accordance with resources available to the Council, out of school care and similar services
- 9.10 Administering appropriate charges as set by the Council for music lessons and similar services
- 9.11 Making arrangements for entering pupils for public examinations
- 9.12 Paying fees and other costs (as necessary) in connection with public examinations
- 9.13 Setting appropriate charges for pre-school services in the Council area
- 9.14 Deciding how the educational trust run by the Council will distribute their funds in line with the relevant trust schemes
- 9.15 Carrying out the Council's duties relating to managing, assessing and awarding higher school bursaries
- 9.16 Making arrangements for school catchment areas to be agreed and pupils to be transferred from primary school to secondary school
- 9.17 Approving the involvement of teaching staff in recognised programmes outwith the UK
- 9.18 Approving 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
- 9.19 Carrying out the Council's duties and responsibilities under the Children and Young People Act 2014 by providing a named person service for nursery and school-age children, publishing information about the operation of the named person service, and helping the named person, including sharing information with them
- 9.20 Ensuring the provision of free school lunches to those children entitled to them.

10.0 Specific Duties and Responsibilities Delegated to the Head of Children's Wellbeing

- 10.1 Entering into contracts with private and voluntary agencies for carrying out the Council's duties under the National Health Service and Community Care Act 1990
- 10.2 Taking 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
- 10.3 Taking responsibility for the provision of Children and Families social care services
- 10.4 Setting fees for curators ad litem, foster and kin carers, and community carers
- 10.5 In line with government guidelines, ensuring maintenance of the Child Protection Register of children in need of protection from abuse
- 10.6 Carrying out the Council's duties and responsibilities under the Children and Young People Act 2014 by: providing continuing care to formerly looked after children, providing services to children at risk of becoming accommodated, making arrangements to secure that kinship care assistance is available; and meeting the duties as an adoption agency.

11.0 Specific Duties and Responsibilities Delegated to the Head of Adult

Wellbeing Services

- 11.1 Entering into contracts with private and voluntary agencies for carrying out the Council's duties under the National Health Service and Community Care Act 1990
- 11.2 Taking 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
- 11.3 Taking responsibility for arranging and providing Community Care Services, including assessments of needs and the care to meet those assessed needs
- 11.4 Co-operating with local Community Justice Authorities to promote best practice in providing Criminal Justice Services.
- 11.5 Securing appropriate resources from Community Justice Authorities in connection with providing Community Justice Services
- 11.6 Working with Community Justice Authority partners to pool resources and work together in the best interests of the Council's Criminal Justice Services.

12.0 Specific Duties and Responsibilities Delegated to the Head of Access and Older People

- 12.1 Entering into contracts with private and voluntary agencies for carrying out the Council's duties under the National Health Service and Community Care Act 1990
- 12.2 Taking 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
- 12.3 Taking responsibility for arranging and providing Community Care Services, including assessments of needs and the care to meet those assessed needs

12.0 Statutory Appointments of Officers

12.1 Under various laws, the Council 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
Social Work (Scotland) Act 1968		
Section 3	Chief Social Work Officer	Head of Adult Wellbeing Services
Local Government (Scotland) Act 1973		
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/Depute Chief Executive 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/ Depute Chief Executive in consultation with Head of Council Resources
Section 92	Proper officer for transferring securities	Depute Chief Executive (Resources and People Services)
Section 95	Proper officer for managing our financial affairs	Head of Council Resources
Section 145	Proper officer for asking Ordnance Survey for information	Depute Chief Executive (Partnerships and

		Community Services)
Section 190	Proper offices for serving notices on behalf of the Council and starting legal proceedings	Chief Executive/ Heads of Service / Service Manager – Legal and Procurement
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/Depute Chief Executive (Resources and People Services)/ Service Manager - Legal And Procurement, in consultation with Head of Council Resources
Section 193	Proper officer for signing notices and orders	The Depute Chief Executive/Head of Service responsible for the service of the notice or order relates to in consultation with the Service Manager – Legal and Procurement
Section 194	Proper officer for signing deeds and using the Council's seal	Chief Executive Service Manager – Legal and Procurement/ Service Manager – Licensing, Admin and Democratic Services
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	Service Manager – Legal and Procurement
Section 202B	Proper officer for putting valid byelaws in the register of byelaws	Service Manager – Legal and Procurement
Section 204	Proper officer for providing certificates as evidence of byelaws	Service Manager – Legal and Procurement
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/Depute Chief Executive in consultation with the Service Manager – Legal and Procurement
Licensing (Scotland) Act 2005		
Paragraph 8(1) (a) of Schedule 1	Clerk of the Licensing Board	Service Manager – Licensing, Administration and Democratic Services
Civic Government (Scotland) Act 2005		
Section 113	Proper officer for keeping evidence of	Head of Council

	management rules	Resources
Ethical Standards in Public Life Etc (Scotland) Act 2000 (Register of Interests) Regulations 2003		
Section 7(1)	Proper officer for setting up and keeping the register of councillors' business, personal and financial interests, and making these available to the public	Monitoring Officer
Representation of the People Act 1983		
Section 41	Returning Officer	The person appointed by the Council, presently postholder of Chief Executive
Weights and Measures Act 1985		
Section 72(1)(a)	Chief inspector of weights and measures	Depute Chief Executive (Partnerships and Community Services)
Local Government and Housing Act 1989		
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	Depute Chief Executive (Partnerships and Community Services)
Section 19	Proper officer for receiving notices of councillors' business, personal and financial interests and keeping records of them	Head of Council Resources
Environmental Protection Act 1990		
Section 149 (1)	Officer appointed to carry out our role of dealing with stray dogs in the area	Depute Chief Executive (Partnerships and Community Services)
Local Authorities (Contracts) (Scotland) Regulations 1997		
Regulation 4	Proper officer for certification purposes (powers to enter into a contract or other matters)	Head of Council Resources

The Scottish Local Government Elections Order 2007		
Rule 57	Proper officer for receiving all election-related documents after an election	Chief Executive
The Regulation of Investigatory Powers (Scotland) Act 2002		
Section 6	Authorising Officer Directed Surveillance	Chief Executive
Section 7	Authorising Officer Covert Human Intelligence Sources	Chief Executive

12.2 The proper officers appointed for the roles set out in part 12.1 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:-

Proper officer appointed for the roles set out in part 12.1	Officer who will carry out duties if the proper officer is not available
If the Returning Officer is not available for election purposes	Depute Returning Officer
If the Depute Chief Executive (Partnerships and Community Services) is not available to act as the Monitoring Officer	Service Manager – Legal and Procurement Service Manager – Licensing, Administration and Democratic Services
If a Depute Chief Executive is not available to act as an officer	The relevant Head of Service
If the Service Manager – Licensing, Administration and Democratic Services is not available to act as Clerk to the Licensing Board	Service Manager – Legal and Procurement/ Senior Solicitor
If the Chief Executive is not available to act as the Head of Paid Service	Depute Chief Executive as agreed
If the Head of Adult <u>Wellbeing Services</u> is not available to act as the Chief Social Work Officer	Children's Wellbeing and Adult Wellbeing Service Managers and the Area Practice Manager, Children's Wellbeing
If the Head of Council Resources is not available to act as Section 95 Chief Finance Officer	Depute Chief Executive (Resources and People Services)

13.0 Scheme of Delegation for Planning Applications

13.1 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 shall be determined by the Service Manager – Planning without reference to Members, subject to 13.1(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 13.1(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 Service Manager – Planning in terms of 13.1(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 Service Manager – Planning 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; and
 - (iii) Applications referred by a Member or Members of the planning authority in terms of 13.1(b) above.

13.2 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 Service Manager, Development Management 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 Service Manager – Planning shall be authorised to proceed on that basis.
- c. Reports to the Planning Committee – Notices, as set out in 13.2(b) above, referred by Members from the Committee Expedited List.

13.3 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.