

REPORT TO: East Lothian Council

MEETING DATE: 28 February 2017

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Amendments to Standing Orders – Scheme of Delegation

1 PURPOSE

- 1.1 To seek approval of proposed changes to the Scheme of Delegation.

2 RECOMMENDATIONS

- 2.1 Council is asked to approve the proposed changes to the Scheme of Delegation, as set out in Appendix 1 to the report.

3 BACKGROUND

- 3.1 Members are advised of a proposal to amend the Scheme of Delegation, Section 12 – Statutory Appointment of Officers. 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.
- 3.2 As regards Section 33a(3) of the Local Government (Scotland) Act 1973 – Officer the declaration of acceptance of office can be made to – for operational reasons, it is proposed to add the Service Manager – Licensing, Admin and Democratic Services, and the Team Manager – Democratic and Licensing as proper offices for this purpose.
- 3.3 In relation to Section 194 of the Local Government (Scotland) Act 1973 – Proper officer for signing deeds and using the Council’s seal – it is proposed that the Legal Team Leader be added as a proper officer. The reason for this change is the Service Manager – Legal and Procurement left the employment of the Council on 14 February and it is considered that, for business continuity reasons, at least three post holders should have the authority to sign deeds and use the Council seal.

- 3.4 In accordance with Section 12.2 of the Scheme of Delegation, where an officer is not available to carry out their delegated duties, other officers may carry out those duties on their behalf. In the event that the Depute Chief Executive (Partnerships and Community Services) is not available to act as the Monitoring Officer, the Service Manager – Licensing, Administration and Democratic Services will act on her behalf. However, it is proposed that the Team Manager – Democratic & Licensing should also be given authority to act on the Monitoring Officer’s behalf as regards providing advice to Councillors on the Councillors’ Code of Conduct.
- 3.6 For business continuity reasons, it is proposed that a Solicitor may be authorised to act as Clerk to the Licensing Board should the Service Manager – Licensing, Administration and Democratic Services be unavailable.
- 3.5 The proposed changes are highlighted within the relevant sections of East Lothian Council’s current Scheme of Delegation, attached as Appendix 1.

4 POLICY IMPLICATIONS

- 4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

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

7 BACKGROUND PAPERS

- 7.1 Report to Council on 27 August 2013 – Revisions to East Lothian Council Standing Orders

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic & Licensing
CONTACT INFO	lgillingwater@eastlothian.gov.uk
DATE	13 February 2017

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 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/ Service Manager – Licensing, Admin and Democratic Services/Team Manager – Democratic and Licensing
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/ Legal Team Leader
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 Team Manager – Democratic & Licensing (in relation to matters concerning the Councillors' Code of Conduct)
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/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 Services is not available to act as the Chief Social Work Officer	Children's Wellbeing and Adult 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)