

REPORT TO: East Lothian Council

MEETING DATE: 29 October 2019

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Proposed Amendments to Standing Orders

1 PURPOSE

- 1.1 To advise Members of proposed changes to the Council's Standing Orders.

2 RECOMMENDATIONS

Council is requested to:

- 2.1 approve the proposed amendments to the Council's Standing Orders, as set out in Appendix 1 to the report;
- 2.2 approve the proposed amendments to the Standing Orders Appendix 1 – Scheme of Administration, as set out in Appendix 2 to the report;
- 2.3 note that the Scheme of Delegation will be redesigned and presented to Council for approval in due course;
- 2.4 approve the removal of Appendices 3-7 from the Standing Orders and re-designate these documents as supporting documents; and
- 2.5 add to the suite of supporting documents the Councillor's Role Descriptions (attached at Appendix 3) and the Standards Commission for Scotland Advice Note for Councillors on Distinguishing between Their Strategic Role and Any Operation Work (attached at Appendix 4).

3 BACKGROUND

- 3.1 Members are advised that a review of the Council's Standing Orders has recently been undertaken. A number of changes to the text of Standing Orders and the Scheme of Administration are proposed, and these are set out in Appendices 1 and 2 of this report.

- 3.2 In response to feedback from Members and Chief Officers, the Scheme of Delegation will be redesigned to make it more accessible and concise. The revised Scheme of Delegation will be presented to Council for approval in due course.
- 3.2 It is proposed that the existing Appendices 3-7 of the Standing Orders be re-designated as 'supporting documents'. The Schemes of Administration and Delegation (Appendices 1 and 2 of Standing Orders) would remain as appendices, as these two documents are inextricably linked to the Standing Orders.
- 3.3 It is also proposed that the documents attached at Appendices 3 and 4 – Councillor Role Descriptions, and Standards Commission for Scotland Advice Note for Councillors on Distinguishing between Their Strategic Role and Any Operation Work – are added to the suite of Supporting Documents.
- 3.2 If approved, the changes set out in the Appendices to this report will be incorporated into Standing Orders. The updates will be issued to political group offices and published on the Council's website.

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 East Lothian Council's Standing Orders

AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager – Democratic and Licensing
CONTACT INFO	<u>lgillingwater@eastlothian.gov.uk</u>
DATE	8 October 2019

1 FIRST MEETING OF THE COUNCIL FOLLOWING AN ELECTION

1.1 Convening the Meeting

In an election year, the Council will hold its first meeting within 21 days from the date of the election. The Chief Executive will set the date and time of this first meeting.

1.2 Mandatory Items of Business

Until the Provost is elected the Returning Officer will chair the meeting.

At this meeting the Council will:

- i. Receive notice of election of Councillors, noting which Councillors have signed the declaration of acceptance of office
- ii. Appoint the Provost, Depute Provost, Leader (and Depute Leader, if desired) of the Council
- iii. Receive notice of the appointments of Leaders of Minority Groups and, from those, appoint the Leader of the Opposition
- iv. Appoint the Cabinet, other Committees and Sub-Committees of the Council and their respective Conveners and Depute Conveners, noting that all Groups will be required to make nominations for membership in accordance with the committee/sub-committee composition, as determined by the Council
- v. Appoint portfolio holders
- vi. Appoint representatives to any Joint Boards, Associated Committees and the various other outside bodies the Council is represented on, provided these appointments can be reasonably made at that meeting and it is considered appropriate to make appointments at that time
- vii. Set the allowances of the Provost, Depute Provost, Conveners and Vice-Conveners of Committees and other Members in accordance with the relevant statutory provisions and guidance from the Scottish Government
- viii. Appoint the Licensing Board in terms of the Licensing (Scotland) Act 2005
- ix. Deal with any other statutory or urgent competent business.

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2 COUNCILLOR APPOINTMENTS AND REMOVAL FROM OFFICE

2.1 Appointment of Councillors to Office

- i. When appointing Councillors to any office or position where there are a greater number of candidates than vacancies, the decision will be taken by a vote (see Standing Order 10).
- ii. It will not be competent for a Councillor to move or second his/her own election or appointment either as Provost, Depute Provost, Leader or Depute Leader of the Council, or as Convener or Depute Convener of a Committee of the Council.
- iii. Where there is one vacancy and one candidate has an absolute majority of the votes cast, that candidate will be appointed. If no candidate has an absolute majority the candidate with the fewest votes will be eliminated and another vote taken. This process of elimination will continue until one candidate has an absolute majority.
- iv. Where there is an equal number of votes for the candidates with the fewest number of votes, there will be an additional vote to decide which candidate to eliminate. If there are an equal number of votes in the additional vote between two candidates, the elimination will be decided by drawing lots.
- v. Where there is one vacancy and an equal number of votes between two candidates, the appointment will be decided by drawing lots.
- vi. Where there is more than one vacancy, the candidate with the lowest vote will be eliminated and another vote taken. This process of elimination will continue until there are an equal number of candidates to the number of vacancies.

2.2 Duration of Appointments

Unless a Councillor resigns from any appointment or is removed by the Council, each of the appointments referred to in Standing Order 1.2 will stand until the next Council election.

2.3 Removing the Provost, Committee Conveners and Committee Members

- i. The Council may remove the Provost, Depute Provost, Leader, Depute Leader, any Convener or Depute Convener of a committee or any member of a committee (this includes appointed members and added members).
- ii. Any motion for removing the Provost, Depute Provost, Leader, Depute Leader, Convener, Depute Convener or any member of a committee may be carried by a simple majority of those members present and eligible to vote at the meeting at which the motion is put.

3 COMMITTEES, SUB-COMMITTEES AND ASSOCIATED COMMITTEES

3.1 Committees

- i. Subject to any statutory provision, the Council may at any time appoint committees to help carry out its functions. The powers and duties of these committees will be incorporated into the Scheme of Administration (Appendix 1 to these Standing Orders). In the event that any new committees are appointed, the Council shall determine the membership of those committees and shall ensure that political balance is achieved. This Standing Order should be read in conjunction with the Scheme of Administration.
- ii. The Council may amend the committee structure at any time.
- iii. The Provost's powers in Council meetings will apply to the Convener (or Depute Convener) of a committee for meetings of that committee and to any member of a committee chairing a committee in the absence of the Convener and Depute Convener for meetings of that committee.

3.2 Sub-Committees

The Council may establish any sub-committee of its committees, their remits, delegated powers and number of members, and appoint the conveners and members of these sub-committees. The powers and duties of these sub-committees will be incorporated into the Scheme of Administration (Appendix 1 to these Standing Orders).

3.3 Associated Committees

The Council may establish any associated committee, their remit, delegated powers and number of members, and appoint the conveners and members of these associated committees. The powers and duties of these associated committees will be incorporated into the Scheme of Administration (Appendix 1 to these Standing Orders).

3.4 Members' Library Service

The Chief Executive will maintain a Members' Library Service, which will contain:

- (a) reports advising of significant items of business which have been delegated to officers ~~Councillors/officers~~—in accordance with the Scheme of Delegation or officers in conjunction with Councillors (see Standing Order 15.2); or
- (b) background papers linked to specific committee reports; ~~or~~
- ~~(c) items considered to be of general interest to Councillors.~~

A summary of all papers lodged in the Members' Library will be presented at the next ordinary meeting of the Council for recording into the proceedings of

the Council. Reports to the Members' Library will be made available to the public except where they contain exempt or confidential information as defined in Schedule 7A of the 1973 Act or Section 50A of the 1973 Act.

4 ORDINARY AND ADDITIONAL MEETINGS OF THE COUNCIL AND COMMITTEES

4.1 Ordinary Meetings

Ordinary meetings of the Council and its committees will be held according to the schedule agreed by the Council, unless the Council agrees otherwise.

At an ordinary meeting of the Council or a committee no business will be transacted other than:

- i. business required by statute to be transacted at that meeting
- ii. business specified in the Notice of Meeting (see Standing Order 4.3)
- iii. any other business considered as a matter of urgency in terms of Section 50B(4)(b) of the 1973 Act and Standing Order 5.2.

4.2 **Additional Special Meetings**

~~An additional special~~ meeting of the Council or a committee may be called to deal with urgent business:

- i. at any time by the Chief Executive, in consultation with the Convener; or
- ii. by a written request signed by at least 6 Councillors. In such cases, the additional special meeting will be held within 14 days of receipt of the request by the Chief Executive; or
- iii. as required by statute.

The agenda for an additional meeting will be limited to that item/those items of business specified.

4.3 Notice of Meetings to Members of the Council and Committees

- i. At least three clear ~~working~~ days before a meeting of the Council or any committee, notice of the time and place of the meeting will be published. As a matter of practice, seven clear days' notice of meetings will normally be given. Note: clear days includes week days, weekends and public holidays, but excludes the day the notice is issued and the day on which the meeting is held.

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- ii. Where the meeting is called by Councillors in terms of Standing Order 4.2(ii), the notice will include a copy of the request signed by them and will specify the business to be discussed at the meeting.
- iii. ~~The Councillors will be provided with the meeting agenda and accompanying papers-reports will be delivered to every Councillor at his/her usual place of residence or their preferred address.~~ If a notice of meeting is not received by any Councillor, the meeting will still be valid.
- iv. All Councillors will have access to all committee papers, including those containing exempt and confidential information (as defined in Standing Order 5.4).

4.4 Notice of Meetings to the Press and Public

- i. Copies of the items set out in the Notice of Meeting will be made available on the Council website (www.eastlothian.gov.uk).
- ii. Reports containing exempt or confidential information (as defined in Standing Order 5.4) will not be made available to the press or public.

4.5 Postponing, Continuing and Cancelling Meetings

- i. In consultation with the Convener, the Chief Executive may postpone any meeting to another day or time.
- ii. Any motion to continue a meeting which has already started to another day or time must be seconded before being put to the vote.
- iii. Where a sub-committee meeting is continued, no member should attend who did not attend the original meeting (see also Standing Order 6.4)
- iv. Scheduled meetings may be cancelled where there is no business to be discussed or with the agreement of the Chief Executive, in consultation with the Convener.

5 MEETING AGENDAS

5.1 Order of Business

- i. The order of business for a Council or committee meeting will be agreed by the Chief Executive and Convener. Any changes to the order of business will be announced by the Convener at the beginning of the meeting. Items containing exempt or confidential information will normally be discussed following public items.

- ii. Unless determined otherwise by the Chief Executive, only business requiring a decision will be specified on the agenda.
- iii. The Convener may make a statement at the start of a meeting on any matter of civic importance. There will be no debate on such matters, unless determined otherwise by the Convener.

5.2 Urgent Business

If three clear ~~working days~~ notice are not given for an item of business, it may be dealt with at the meeting as urgent business if:

- i. it is made known at the start of the meeting; and
- ii. the Convener rules that there are reasons why it is urgent and states those reasons.

5.3 Written Motions to Council

- i. Written motions intended for inclusion on the agenda for a meeting of the Council will be signed by the Councillor submitting the motion and countersigned by at least one other Councillor. All such notices should be submitted to the Clerk ~~eight~~ eleven clear ~~working~~ days in advance of the meeting date. If this deadline is missed, the motion will not be included on the agenda. Motions will be included on the agenda for the meeting in the order in which they are received.
- ii. Every motion must contain an instruction to Council and be relevant to matters within the Council's powers and duties or involve an issue that will affect East Lothian or a matter of social and political concern.
- iii. Motions may not contain offensive or abusive language and may not contain argument. The Chief Executive, in consultation with other Council officers, may refuse to accept any motion that fails to meet these requirements.
- iv. Every written motion received will be subject to checks to determine their competency, which will include:
 - (a) whether they have been submitted in accordance with Standing Order 5.3(i);
 - (b) the purpose of the motion is within the powers of the Council;
 - (c) the motion is lawful; and
 - (d) whether the purpose of the motion seeks to directly rescind a decision made by the Council or Committee within the previous six months (in which case approval of two-thirds of Councillors present and entitled to vote would be required).

5.4 Exempt and Confidential Information

- i. Agendas and reports containing exempt information (exempt items) will contain a declaration that the report is 'Not for publication' because it contains exempt information as defined in Schedule 7A of the 1973 Act.
- ii. The press and public will not be admitted during the discussion of exempt items. ~~This Standing Order will not apply to any Councillor.~~
- iii. If a question arises at a Council or committee meeting where the press or public is present as to (a) the appointment, promotion, salary or conditions of service, or (b) as to the dismissal, conduct, character or reputation of any person(s) employed by the Council, or (c) confidential information as defined in Section 50A of the 1973 Act, it will be considered by the Council or committee in private.

6 GENERAL OPERATION OF COUNCIL AND COMMITTEE MEETINGS

6.1 Chairing Meetings

- i. The Provost, if present, will be the Convener of Council meetings. If the Provost is not present, the Depute Provost will chair the meeting. If neither the Provost nor the Depute Provost is present, the Councillors present will decide who will chair the meeting by means of nomination and a simple majority vote.
- ii. The Convener, if present, will chair committee/sub-committee meetings. If the Convener is not present, the Depute Convener will chair the meeting. If neither the Convener nor the Depute Convener is present, the Councillors present will decide who will chair the meeting by means of nomination and a simple majority vote.
- iii. If a Convener is required to vacate the chair due to a declaration of interest, the Depute Convener will assume the chair. If the Depute Convener is not present, the Councillors present will decide who will assume the chair by means of nomination and a simple majority vote.

6.2 Quorum

- i. No business will be carried out at a meeting unless a quorum of Councillors is present. A quorum is the minimum number of Council/committee members who must be present before the meeting can take place and make valid decisions.
- ii. The quorum of the Council, committees and sub-committees will be detailed in the Council's Scheme of Administration (see Appendix 1).

- iii. If ~~10~~ten minutes after the time appointed for a meeting the quorum has not been met, the Convener will postpone the meeting until a date and time determined at the time or afterwards. The minutes of the meeting will record that no business was carried out due to the lack of a quorum.

~~iv. If, after a meeting has started, the number of Councillors entitled to vote falls below the quorum, there will be a break of ten minutes. If, at the end of the ten-minute~~after the break, a quorum ~~cannot be~~has not been found, the meeting will be adjourned and the minutes of the meeting will state the reason for the adjournment.

- iv. Decisions taken during any part of the meeting where there was a quorum present are valid.

6.3 Attendance at Meetings

- i. At each meeting, the Clerk will record the names of Councillors present, those committee members who submit apologies for absence, and those committee members who are absent without having submitted an apology.
- ii. ~~The entitlement to vote on any matter under consideration will be restricted to committee members present at the meeting. Direction on councillor participation in meetings of any committee of which they are not a member is set out in within the Scheme of Administration for each committee. All Councillors will have the right to attend meetings of any committee of which they are not members and to make a statement on any matter under consideration, but only committee members will be entitled to vote.~~

6.4 Substitute Members

- i. In respect of sub-committees of the Council, and of other committees, as stipulated in the Scheme of Administration, members may appoint another member of the Council as a substitute member to act on their behalf at any meeting which they are unable to attend. This Standing Order should be read in conjunction with Standing Order 4.5(iii) and the Scheme of Administration.
- ii. Where a member is unable to attend a meeting and has appointed a substitute (in accordance with the Scheme of Administration), they will advise the Clerk in advance of the name of the Councillor who will act as substitute.

6.5 Failure to Attend Meetings

- i. If a Councillor is not able to attend a meeting, he/she should inform the Clerk ~~to the Council or of that~~ committee in advance of the meeting. The Clerk will advise the meeting of apologies intimated prior to the

commencement of business. ~~Only those apologies will be recorded in the minutes.~~

- ii. If a Councillor fails to attend meetings for six consecutive months of any meeting of the Council or its committees and sub-committees, associated committees or joint boards on which the Councillor represents the Council, the Councillor will no longer be a member of the Council unless the Council grants them prior leave of absence.

6.6 Press and Public Attendance at Meetings

- i. Except where Standing Order 5.4 provides otherwise, every meeting of the Council, its committees and sub-committees will be open to the press and public as observers.
- ii. The taking of photographs, use of mobile phones and of other audio visual and recording equipment is not permitted during meetings unless with the express permission of the Convener.
- iii. If a member of the public interrupts any meeting, the Convener may issue a warning to the person creating the disturbance or may order that person to be removed from the meeting. If they refuse to leave the meeting, the Convener may call for the Police to remove them.
- iv. If there is a general disturbance during any part of the meeting open to the public, the Convener may order that the public be removed from the meeting.
- v. Members of the public will not be permitted to address any meeting of the Council, its committees or sub-committees, except where they have the prior permission of the Convener. It will be at the discretion of the Convener to permit any member of the public to address any meeting (see also Standing Order 7.1).

7 CONDUCT AT COUNCIL AND COMMITTEE MEETINGS

7.1 Powers and Duties of the Convener

- i. It is the duty of the Convener to ensure that Standing Orders are followed and to ensure that all Councillors receive a fair hearing.
- ii. When the Convener begins to speak, other Councillors must stop speaking.
- iii. The Convener will decide on the order in which Councillors may speak.
- iv. On all points of order, the ruling of the Convener will be final and not open to discussion.

- v. In the event of disorder arising at any meeting, the Convener will be entitled to adjourn the meeting until a date and time determined by the Convener at the time or afterwards.
- vi. It will be at the discretion of the Convener to permit any member of the public or deputation to address any meeting of the Council, provided that prior permission has been sought and granted by the Convener.
 - a. In respect of any item of business, other than planning applications, the number of persons in a deputation will not exceed three and will be given no more than ten minutes in total to present their case.
 - b. In respect of planning applications, applicants/agents and individuals who have submitted written representations will be invited to attend the Planning Committee and offered the opportunity to address the Committee, in accordance with the procedures outlined in the Scheme of Administration for the Planning Committee (Appendix 1).
 - c. Councillors will not interrupt the delivery of a presentation but may ask questions on its conclusion.
- vii. The Convener will have discretion to determine all questions of procedure where no specific provision is made under these Standing Orders. He/she will explain the reasons for the decision and his/her decision will be final and not open to discussion.

7.2 Behaviour

All Councillors must comply with the Councillors' Code of Conduct and behave respectfully at any meeting, and should not behave in a manner that is improper or offensive or deliberately obstructs or otherwise disrupts the business of the meeting.

The Convener may take any of the following courses of action against any Councillor disregarding the authority of the Convener, obstructing the meeting or conducting him/herself offensively:

- i. direct the Councillor to refrain from speaking during the remainder of the debate on the matter under discussion
- ii. adjourn the meeting for a period of time specified by the Convener
- iii. suspend the Councillor for the remainder of the meeting and direct him/her to leave the Chamber, in which case the Councillor concerned shall leave the Chamber immediately.

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7.3 Points of Order

- i. A point of order is a verbal objection given to the Convener, saying that a statement or proposed procedure or action at the meeting may be in breach of the law, ~~or Standing Orders~~ or the Councillors' Code of Conduct ~~or that the meeting is being misled~~. The term 'point of order' does not include the arguments, the principles or the political views expressed in debate, or relate to how true or accurate any statement made in the course of debate is. A difference of opinion is not a point of order.
- ii. Any Councillor ~~(voting or non-voting)~~ eligible to participate in the meeting may raise a point of order arising at any point in the meeting, but must clearly tell the meeting on what basis a Standing Order, ~~the~~ or law ~~or the Councillors' Code of Conduct~~ has been, or is about to be, breached, ~~or on what point the meeting is being misled~~.
- iii. ~~A Councillor who is addressing the meeting w~~When a point of order is raised, the meeting will stop until the Clerk or Legal Adviser has ~~explained~~ determined whether or not the point raised is a point of order. If the point of order is confirmed by the Clerk or Legal Adviser ~~as a point of order~~, the Convener will decide how the point of order should be dealt with. If the point is not confirmed to be a point of order, it will not be accepted and the business will continue.

7.4 Declarations of Interest – Councillors

- i. Any Councillor who has an interest (financial and/or non-financial), as defined in the Councillors' Code of Conduct ~~(see Appendix 4)~~, in any matter and is present at a meeting of the Council at which that matter is under consideration, will act in accordance with the Councillors' Code of Conduct. He/she should seek the advice of the Monitoring Officer and take account of legal advice, where appropriate, on the terms of the Code and how it may affect them.
- ii. Applications to the Council for any grant, approval or permission in which any Member has a personal or financial interest will be considered only by the Council or the appropriate committee or sub-committee.

7.5 Declarations of Interest – Council Officers

Any officer who has an interest (financial and/or non-financial) in any matter and is present at a meeting of the Council at which that matter is under consideration, will disclose his/her interest and, at the discretion of the Council, may be excluded from the meeting while that matter is under consideration.

7.6 Adjournments and Breaks

- i. The Convener may adjourn a meeting at any time for any reason, and will determine the length of the adjournment.
- ii. Subject to the Convener's effective management of the meeting, there will be a 30-minute break after approximately three hours of sitting.

8 INTRODUCING REPORTS AND QUESTIONS TO OFFICERS

- i. Reports to the Council and committees will be introduced, without interruption, by the officer who has responsibility for the report.
- ii. Unless the Convener agrees otherwise, an officer will take no more than five minutes to present a report and will highlight the salient points to Councillors.
- iii. In accordance with the Scheme of Administration, the Convener will then give Councillors the opportunity to ask questions and request explanations or more information from that officer or from any other officer at the meeting who holds information that is relevant to the matter under consideration. To promote the effective management of the meeting, Councillors should seek clarification on any points from officers in advance of the meeting. On that basis, the Convener may limit the number and extent of questions raised by individual Councillors at the meeting.
- iv. Once the report has been introduced and when, in the opinion of the Convener, Councillors have had a reasonable opportunity to ask questions and request explanations or more information, the Convener will move to the debate.

9 DISCUSSION AND DEBATING RULES

9.1 Reports to Council and Committee

Motions for approval of a report's recommendations will be considered as the original motion. Any motion proposing to alter the recommendation(s) of the report will be dealt with as an amendment.

9.2 Written Motions

- i. Motions submitted in accordance with Standing Order 5.3 must be set out in writing before they can be debated or put to a vote.
- ii. Motions must be moved and seconded before they are debated or put to a vote.

- iii. Individuals present at a meeting who do not have voting rights may not move or second a motion.

9.3 Amendments

- i. Amendments must relate to the report or motion under discussion.
- ii. Other than in exceptional circumstances (see (x) below), and in relation to the terms set out in (xi) below, amendments should be submitted to the Clerk by noon on the day prior to the meeting, in order that copies can be circulated to Members prior to or at the meeting.
- ~~iii. Only in exceptional circumstances will the Convener accept amendments submitted out with the timescale set out in (ii) above. In such circumstances, the Convener will explain his/her reasons for accepting the late amendment. Amendments will be collated by the Clerk and circulated to Councillors in advance of or at the meeting.~~
- iv. Every amendment shall be given in writing to the Clerk.
- ~~iv. The Convener has the power to rule out of order any amendment he/she considers irrelevant or substantially similar to the motion or to any previous amendment.~~
- ~~vi. Amendments must be moved and seconded before they can be debated or put to a vote.~~
- ~~vii. Individuals present at a meeting who do not have voting rights may not move or second an amendment.~~
- ~~viii. Amendments submitted in accordance with the timescales set out in (ii) above will be introduced following the presentation of the report by the officers/the moving and seconding of a motion by Councillors. Where more than one amendment has been submitted, the Convener will determine the order in which they are taken. Only one amendment may be debated at the one time.~~
- ~~vii. Notice of any second or subsequent amendments must be given before the end of the debate on the current amendment. If notice is not given at the right time, the amendment(s) will not be accepted.~~
- ~~viii. Where more than one amendment is moved and seconded, the Convener will determine the order in which they are put to the vote. However, where an amendment is the 'direct negative' of the original motion, the vote on this direct negative amendment will be taken first. If the direct negative amendment is carried, any remaining amendments and the original motion will therefore fall.~~

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- ix. Once all amendments have been moved and seconded, the Convener will move to the debate.
- x. Exceptional circumstances shall include a written amendment submitted outwith the timescale set out in (iii) above or a verbal amendment made in response to matters raised during the debate. Such amendments should be proposed and seconded and put to the Council or committee in accordance with Standing Order 10.1 (iii). Where requested, the proposer of a verbal amendment may be required to provide the clerk with the amendment in writing.
- xi. For the purpose of the budget-setting process, specific arrangements, as determined by the Council, will be made as regards the timescales for and submission of amendments.

9.4 ~~Speaking on a Motion or Amendment~~Order of Debate

- i. Any Councillor wishing to ask questions relating to the matter under consideration may do so at any time before the formal debate begins. (This Standing Order should be read in conjunction with Standing Orders 8(iii) and 8(iv).
- ii. Councillors may speak only once during the debate on any item of business. The exceptions are:
 - to exercise a right of reply, in which case the proposer of the original motion will be limited to five minutes and that the reply will be limited to answering matters raised in the debate; or
 - by making a point of order that the Convener has agreed to take.
- iii. A Councillor moving a motion or an amendment may speak for no more than ten minutes.
- iiii. Other Councillors taking part in the discussion, including those who second motions or amendments, will speak for no more than five minutes. A councillor who seconds a motion or amendment may do so formally, reserving his/her entitlement to speak on the matter to a later stage in the debate.
- iv. The Convener may invite officers to clarify matters or provide further information on the matter under consideration, as required, during the debate.

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9.5 **Withdrawing a Motion or Amendment**

A motion or amendment can only be withdrawn by the mover (the person who put forward the motion) and the seconder (the person who supported it).

9.6 Putting a Motion to Council

The Convener will put the motion to the Council after the mover of a motion (or motion as amended) has exercised their right of reply. There will be no further debate on the motion.

10 VOTING AT COUNCIL AND COMMITTEE MEETINGS

10.1 General Information

- i. Unless required by law or Standing Orders, every motion coming to or arising at a Council meeting will be decided by a show of hands of a simple majority of the Councillors who are present and eligible to vote.
- ii. After the Convener has announced that any matter is to be put to the vote, the Clerk will (if required) clarify the matter. The Convener will then take the vote. No Councillor will interrupt the proceedings until the result of the vote is announced.
- ~~iii. Where an amendment has been proposed and seconded, it will be voted on before the vote on the motion. Where the amendment is carried, the original motion will fall. Where more than one amendment has been proposed and seconded, the Convener will determine the order in which they are put to the vote. A vote will be taken on the motion against the first amendment. A vote will then be taken on the surviving position against the second amendment. This process will continue for any further amendments. All councillors are entitled to vote at all stages.~~
- iii. If a Councillor immediately challenges the accuracy of the count, the Convener will rule on whether the vote should be repeated and a recount taken. The Convener will then announce the result of the vote.
- ~~iv. The Convener will ask firstly for votes on any amendment(s) and then for votes on the motion, in accordance with Standing Order 9.3(viii). The Convener will then announce the result of the vote.~~
- v. Unless the law says otherwise (or in relation to Standing Order 10.3(iii)), the Convener will have a 'casting vote'. He/she may use this where there are an equal number of votes for or against any motion or amendment.

10.2 Roll Call Vote

- i. Any Councillor (whether or not eligible to vote) can ask for a roll call vote on any question coming to or arising at a meeting.

- ii. If a vote is taken by roll call, the names of those Councillors voting for or against the motion or amendment will be included as part of the minutes for the meeting.

10.3 Entitlement to Vote

- i. Councillors who have withdrawn from the meeting following a declaration of interest may not vote on the item concerned.
- ii. Councillors attending committees of which they are not members will not be entitled to vote [\(see also Standing Order 6.3\(ii\)\)](#).
- iii. The Convener will not have a casting vote in relation to filling of posts held by Councillors or other representatives and in the appointment of employees.

10.4 Recording Votes in the Minutes

- i. The minutes of the meeting will record the vote, including any abstentions.
- ii. A Councillor may ask that the minutes of the meeting record a note of his/her disagreement with a decision of the meeting.

11 PROCEDURAL MOTIONS

The following procedural motions may be moved during the discussion of an item of business. If the motions have been moved and seconded, they will be put to the vote without being discussed beforehand. The outcome of the vote will be recorded in the minutes of the meeting:

- i. Moving to the next item of business
- ii. Putting the matter to the vote
- iii. Postponing the debate
- iv. Continuing an item of business

12 RESCINDING DECISIONS

Any motion that would directly rescind a previous Council decision within a period of six months from the date of the original decision can only be approved if two-thirds of Councillors present and entitled to vote agree to do so. This Standing Order does not apply to decisions taken under powers delegated to officers.

13 SUSPENDING AND AMENDING STANDING ORDERS

13.1 Suspending Standing Orders

Standing Orders may be suspended at any meeting of the Council. This can only take effect where at least two-thirds of the Councillors present and entitled to vote approve such a motion. Any such suspension of Standing Orders cannot override a legal duty or requirement of the Council.

13.2 Amending and Removing Standing Orders

- i. Any proposal to add, alter or remove any Standing Order can only be approved where at least two-thirds of the Councillors present and entitled to vote agree to do so. A motion to this effect can only be considered at a meeting of the Council and not at any committee or sub-committee.
- ii. Any proposal to add, alter or remove ~~any appendix~~ Appendices 1 and 2 to the Standing Orders will require a simple majority voting in favour of the proposal. The exception to this is the removal of any committee or sub-committee from the Scheme of Administration, which will require the approval of two-thirds of Councillors present and entitled to vote.

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14 MINUTES OF COUNCIL AND COMMITTEE MEETINGS

14.1 Approval of Minutes

- i. The reporting arrangements for committees, sub-committees and associated committees will be as contained in the Council's Scheme of Administration (Appendix 1).
- ii. Minutes shall be approved by a simple majority of those present and entitled to vote. If a meeting agrees that minutes submitted for approval are a correct record, the appropriate Convener will sign the principal copy of the minutes.
- iii. Where the meeting agrees to amend any part of a minute submitted for approval, the Convener will sign the corrected principal copy of the minutes.

14.2 Publication of Minutes

Subject to the provisions of Schedule 7A and of Sections 50A of the 1973 Act (concerning exempt and confidential information), once approved, minutes will be published on the Council's website.

15 DELEGATION

15.1 Delegation Arrangements

The Council will make a Scheme of Delegation to committees and officers to carry out certain functions. The Scheme of Delegation will form an appendix to these Standing Orders (see Appendix 2)

15.2 Delegation of Business to Councillors and Officers

In addition to the delegations specified in the Scheme of Delegation, business may be delegated to a specific chief officer to act in consultation with any two of the Provost, Depute Provost, Leader, Depute Leader (if appointed) or Convener, or to a specific chief officer acting alone. The outcome of the deliberation under such delegation will be subject to a report to the Members' Library Service.

15.3 Emergencies – Delegation of Business to Councillors and Officers

Power ~~will be~~ delegated to the Chief Executive and all chief officers to take any action with regard to any emergency involving serious danger to life, property, or public welfare, or in accordance with the Council's Emergency Business Continuity Plan. Any action taken under this Standing Order will be reported to the Provost or Leader and the appropriate committee Convener as soon as possible and thereafter to the Council.

15.4 Additional Delegations in Conjunction with Councillors

Power is delegated to the Chief Executive and statutory officers, in conjunction with cross-party Councillor representation, to take immediate or urgent action with regard to matters not covered by Standing Order 15.3.

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15.54 Delegation of Business to Committees

- i. The Council will make a Scheme of Administration setting out the functions and remit of any committee and sub-committee. The proper decisions of committees will be regarded as decisions of the Council.
- ii. Decisions of a committee on functions delegated to them will be reported to the Council for information only unless the committee resolves that a particular item of business should be referred to the Council for decision or requires amendments to the Council's approved budget.

15.65 Recess Business Arrangements

Between the last scheduled meeting of the Council prior to the summer/election recess and the first meeting following the summer/election recess, a minimum of two of the Provost, Depute Provost, Leader, Depute Leader (if appointed), together with the Convener/Depute Convener of the

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appropriate committee, will deal in their discretion with the urgent business of the Council presented to them for consideration by the Chief Executive, or officers authorised by him/her to act on his/her behalf.

For the avoidance of doubt, matters that require approval of two-thirds of Councillors cannot be dealt with under this Standing Order.

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COUNCIL AND COMMITTEES

EAST LOTHIAN COUNCIL

A Remit and Powers

Business shall be delegated to Committees, as specified in the Scheme of Administration. However, the Council alone shall have power to decide upon the following items of business, which are excluded from delegation to any Committee.

1. The setting of a budget and determination of any local tax or rate
2. The setting of rent levels for property held on the Housing Revenue Account
3. Agreeing the Single Outcome Agreement
4. Agreeing East Lothian Council's Council Plan
5. Expenditure, either capital or revenue, not included in the current revenue estimates, except in cases of urgency or emergency under Standing Order 15 – Emergencies: Delegation to Members and Chief Officials
6. Standing Orders of the Council or other procedural matters regarding the organisation and discharge of the Council's business
7. Licensing, registrations and so on under various statutory terms which are not the responsibility of any committee
8. The functions of the Council under the Representation of the People Acts
9. The committee structure of the Council
10. Consideration, amendment and approval of the Local Development Plan and Strategic Development Plan, as specified under the Town and Country Planning (Scotland) Act 1997
11. The appointment of all Statutory Officers
12. The approval and monitoring of Police and Fire & Rescue Service Plans, in accordance with the Police and Fire Reform (Scotland) Act 2012.

B Membership and Attendance

- ~~1.~~ ~~4.~~ The membership of the Council shall include a Convener and a Depute Convener. The Council shall determine the membership of the Council.
- ~~4-2.~~ All Councillors will have the right to attend meetings of the Council and to participate fully in any matter under consideration.

C Quorum

1. Six (one quarter of the whole number of members of the Council, as set by the Local Government (Scotland) Act 1973. Note: the Act makes provision for the quorum where there are vacancies).

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Council.
2. Minutes shall be presented to the Council for approval.

G Miscellaneous

1. As set out in Standing Order 3 – Committees, Sub-Committees and Associated Committees, the Council may:
 - (a) appoint other Committees, Sub-Committees or Associated Committees and amend the structure of Committees
 - (b) appoint special member groups to report and advise on matters specified by remit
 - (c) subject to the provisions of the Acts of 1973, 1989 and 1994, and any other relevant Acts, appoint persons who are not Members of the Council to Committees, other than Committees regulating and controlling the finances of the Council, provided that at least two-thirds of the Members of each Committee are Members of the Council
 - (d) subject to the provisions of the Acts of 1973, 1989 and 1994, and any other relevant Acts, appoint Advisory Committees on any matter relating to the discharge of their functions, of such persons (whether Members of the Council or not) and for such term as the Council determines.

CHIEF OFFICER AND HEAD TEACHER APPOINTMENTS SUB-COMMITTEE

A Remit and Powers

1. The Chief Officer and Head Teacher Appointments Sub-Committee shall have the authority to appoint to the positions of Chief Executive, Depute Chief Executive, Head of Service, Jointly Accountable Officer and Head Teacher.

B Membership and Attendance

1. An Appointments Sub-Committee will be drawn from a cross-section of Councillors for all Chief Officer and Head Teacher appointments. Only those Councillors (or their nominated substitutes) selected to participate in the appointments process will have the right to attend and participate in the meeting.
2. As regards the appointment of the Chief Executive, the Appointments Sub-Committee will consist of the Council Leader, Provost and three cross-party Councillor members (at least one of which should be from the largest Minority Group). The Sub-Committee may be advised by an Independent HR Adviser and the Service Manager, People and Governance. ~~the Service Manager – HR and Payroll.~~
Note: only Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to participate in the appointment of the Chief Executive.
3. As regards the appointment of Depute Chief Executives and Heads of Service, the Appointments Sub-Committee will consist of three Councillors, i.e. normally two Councillors from the Administration and one Councillor from the largest Minority Group. The Sub-Committee may be advised by the Chief Executive, an Independent HR Adviser and ~~the Service Manager – HR and Payroll~~the Service Manager, People and Governance. In the case of a Head of Service appointment, the Panel may also be advised by the Depute Chief Executive of the Service in which the vacancy exists.
Note: only Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to participate in the appointment of Depute Chief Executives and Heads of Service.
4. As regards the appointment of Jointly Accountable Chief Officers, the Appointments Sub-Committee will consist of the Council members and partner members of the (Shadow) Board. The Sub-Committee will be advised by the Chief Executives of the organisations involved, HR advisers from those organisations and, where appropriate, an independent external adviser.
Note: only Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to participate in the appointment of Jointly Accountable Officers.
5. As regards the appointment of Head Teachers, the Appointments Sub-Committee will consist of two Elected Members (including the Convener or Depute Convener of the Education Committee (Chair) and, usually, at least one from the Ward in which the vacancy arises), two Parent Council members from the school to which the appointment is being made* and two officers nominated by the Depute Chief Executive (Resources and People Services). Where the appointment relates to a Roman Catholic school, a representative of the Catholic Church (who sits on the Education Committee) will be appointed to the

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panel in addition to those groups listed above. Where there is a Catholic Church representative vacancy on the Education Committee, the appointment process will proceed in the absence of such a representative. All Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to take part in the appointment of Head Teachers.

- * Should there be no Parent Council member(s) interested in participating in the process, the Parent Council may nominate a representative to participate on their behalf from outwith the Parent Council, but their nominee must have undertaken the Council's Recruitment and Selection Training for Head Teacher Appointments. Should the Parent Council decline the offer to participate, the recruitment process will continue in their absence.

In the event of a shared Headship, one Parent Council member from each school will be eligible to participate.

C Quorum

1. The quorum for the appointment of Chief Officers is set out in B1-4.
2. The quorum for the appointment of Head Teachers shall be four for non-denominational schools and five for Roman Catholic schools.

D Substitutes

1. As regards the appointment of Chief Officers, there shall be no substitutes.
2. As regards the appointment of Head Teachers, substitutes shall be permitted, on a like-for-like basis.

E Meetings

1. Meetings shall be called by Notice issued by the Chief Executive. The Notice shall specify the agenda for the meeting and shall be accompanied by the relative documentation to be discussed at the meeting.
2. The agenda shall, whenever possible, be issued seven days prior to the meeting.
3. Meetings of the Chief Officer and Head Teacher Appointments Sub-Committee will be held in private.

F Reporting Arrangements

1. Minutes of the meetings in relation to the appointment of Chief Officers shall be presented to the Council for noting.
2. Minutes of the meetings in relation to the appointment Head Teachers shall be presented to the Education Committee for noting.

G Miscellaneous

1. All permanent vacancies will be advertised publicly and in accordance with the Council's Recruitment and Selection Policy and Procedures applicable at that time, unless arising as a result of an internal restructure.

AUDIT & GOVERNANCE COMMITTEE

A Remit and Powers

The following business and functions are delegated by the Council to the Audit & Governance Committee:

1. Risk and Internal Controls

- (a) promote Council policy on risk management by reviewing the delivery of the Risk Management Strategy, reviewing the business and strategic risk assessment arrangements and procedures and the Corporate Risk Register;
- (b) promote, review and monitor internal controls, financial and otherwise, within the Council in order to provide reasonable assurance of the effectiveness and efficiency of operations and compliance with relevant statutes, directions, guidelines and policies;
- (c) develop an anti-fraud culture within the Council to ensure the highest standards of probity and public accountability;
- (d) approve the annual Internal Audit assurance report and the statement of internal controls for inclusion in the annual accounts;
- (e) approve Internal Audit's Terms of Reference.

2. Review of Audit Functions

- (a) determine the scope of the annual audit plan and ensure it is directed in accordance with the approved business risk assessment;
- (b) examine and review the External Audit Planning Memorandum and review the overall performance with regard to quality, productivity and the fees charged;
- (c) review the activities of the Internal Audit function and monitor overall performance in terms of quality, productivity and effectiveness;
- (d) ensure that the Internal Audit function is sufficiently resourced to provide a systematic review of internal controls and a full assessment of significant investigations;
- (e) examine Internal and External Audit reports, and ensure weaknesses identified are adequately addressed by management and recommendations are actioned;
- (f) ensure that there are effective relationships between Internal and External Audit and inspection agencies, and that the value of the audit process is actively promoted.

3. Financial Matters

- (a) review the Council's financial performance as contained in the annual statement of accounts;

(b) approve the Council's financial accounts for signing;

(cb) review the audit certificate/wording of any matters reported;

(de) review the annual report to Members from the External Auditor;

(ed) review the implementation of audit recommendations;

(fe) ensure that issues raised in previous financial years have been addressed; and

(gf) review and monitor treasury management arrangements.

4. *All matters relating to the performance of the Departments and Council as a whole, including, but not limited to:*

Community

- Strategic vision and direction setting by Members
- Integration of strategic vision, direction and community planning priorities and actions into internal planning mechanisms
- Public performance reporting and public accountability
- Transparency of decision-making processes
- Consultation and communication with communities

Service Delivery Arrangements

- Corporate planning approach and performance against corporate actions and targets, including financial position and performance and asset management
- Performance management system and corporate performance information monitoring
- External scrutiny/assessment recommendations and resulting action planning
- Management of joint working
- Best Value reviews and option appraisal
- Contracting issues

Structures and Processes

- Monitoring of decision-making structures and mechanisms
- Monitoring of policy development and implementation
- Clarity of key roles and responsibilities

Governance

- Corporate Governance
- Annual Governance Statement

B Membership and Attendance

1. The membership of the Audit & Governance Committee shall include a Convener and a Depute Convener. The Council shall determine the membership of the Audit & Governance Committee. Membership of the Committee should be drawn only from non-Cabinet Members of the Council. In appointing Members to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of reducing the number of places on the Committee, or by appointing Members of any political

group/independent councillors to the vacant places. Regardless of the political composition of the Committee, it should act with political neutrality.

2. In the absence of the Convener and Depute Convener at a meeting the other Members of the Committee shall appoint an alternative Chairperson for the duration of that meeting.

3. Councillors who are not members of the Audit & Governance Committee will have the right to attend meetings of the Committee and to question officers on any matter under consideration.

C Quorum

1. Half + 1 of the places filled.

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4..

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Audit & Governance Committee.
2. Minutes shall be presented to the Audit & Governance Committee for approval.

G Miscellaneous

1. Decisions of the Committee on functions delegated to them shall be reported to the Council for information only unless the Committee resolved that a particular item of business should be referred to the council for decision.
2. The External Auditor will have the right to request that items of business are presented to the Committee.

CABINET

A Remit and Powers

The following business and functions are delegated by the Council to the Cabinet (without prejudice to the Scheme of Delegation):

1. The development, determination and review of Council policy and strategy
2. Financial reporting
3. Partnership working
4. Initiating, confirming and making of statutory orders
5. Funding to external organisations
6. Introducing new charges for Council services

B Membership and Attendance

1. The membership of the Cabinet shall include a Convener and, if desired, a Depute Convener. The Council shall determine the membership of the Cabinet.
2. Councillors who are not members of the Cabinet will have the right to attend meetings of the Committee and to question officers on any matter under consideration.

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C Quorum

1. Half the membership + 1

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Cabinet.
2. Minutes shall be presented to the Cabinet for approval.

G Miscellaneous

1. Decisions of the Committee on functions delegated to them shall be reported to the Council for information only unless the Committee resolves that a particular item of business should be referred to the Council for decision.

EMPLOYEE APPEALS SUB-COMMITTEE

A Remit and Powers

1. The Employee Appeals Sub-Committee shall consider:
 - i. Stage 3 Disciplinary and Grievance cases and shall determine accordingly, in accordance with the Council's Discipline and Grievance Policies; and
 - ii. Appeals against dismissal of employees not related to discipline/grievance appeals.

B Membership and Attendance

1. ~~1.~~ The membership of the Employee Appeals Sub-Committee shall consist of five councillors – the Leader of the Council (Chair), the Provost (Vice-Chair), the Depute Provost, the Leader of the Opposition, and ~~the a~~ Cabinet member ~~for the relevant area.~~
- ~~4.~~ 2. Only those Councillors (or their nominated substitutes) selected to participate in the appeals process will have the right to attend and participate in the meeting.

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C Quorum

1. 3 Members

D Substitutes

1. Members of the Employee Appeals Sub-Committee shall be entitled to nominate substitute members to attend any meeting of the Employees Appeals Sub-Committee (in accordance with Standing Order 6.4).

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. Meetings of the Employee Appeals Sub-Committee shall be held in private, due to the confidential nature of the business.

F Reporting Arrangements

1. The Clerk shall be responsible for taking minutes of the meetings of the Employee Appeals Sub-Committee.
2. Minutes shall be presented to the Employee Appeals Sub-Committee for approval.

G Miscellaneous

LICENSING SUB-COMMITTEE

A Remit and Powers

1. The Licensing Sub-Committee shall consider all matters in relation to Civic Government Licensing, Licensing of matters other than where covered by the Licensing (Scotland) Act 2005 and the Gambling Act 2005, ~~Houses of Multiple Occupation and Registration of Private Landlords.~~

B Membership and Attendance

1. ~~4.~~—The membership of the Licensing Sub-Committee shall include a Convener and, if desired, a Depute Convener. The Council shall determine the membership of the Licensing Sub-Committee. In appointing councillors to the Sub-Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Sub-Committee by way of reducing the number of places on the Sub-Committee or by appointing members of any political group/independent councillors to the vacant places. Regardless of the political composition of the Sub-Committee, it should act with political neutrality.
2. Councillors who are not members of the Licensing Sub-Committee will have the right to attend meetings of the Sub-Committee and to question officers on any matter under consideration. Local ward Councillors who are not members of the Sub-Committee will also have the right to make a statement on applications for licences within their ward.

C Quorum

1. 3 Members

D Substitutes

1. Members of the Licensing Sub-Committee shall be entitled to nominate substitute members to attend any meeting of the Licensing Sub-Committee (in accordance with Standing Order 6.4).

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.

F Reporting Arrangements

1. The Clerk shall be responsible for taking minutes of the meetings of the Licensing Sub-Committee.
2. Minutes shall be presented to the Licensing Sub-Committee for approval.

G Miscellaneous

1. The Licensing Sub-Committee shall be entitled to adopt a scheme of delegation to officers in respect of licensing matters within its remit.

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HOMELESSNESS APPEALS SUB-COMMITTEE

A Remit and Powers

1. The Homelessness Appeals Sub-Committee shall deal with the determination of appeals against decisions of the Council relating to homelessness.

B Membership and Attendance

- ~~1.~~ ~~4.~~ The membership of the Homelessness Appeals Sub-Committee shall include a Convener, to be appointed at each meeting. The membership of the Homelessness Appeals Sub-Committee shall reflect the membership of the Council and shall ensure that the Panels hearing appeals have a different composition from the Committees determining matters in the first instance.

- ~~4.2.~~ Only those Councillors (or their nominated substitutes) selected to participate in the appeals process will have the right to attend and participate in the meeting.

C Quorum

1. 3 Members

D Substitutes

1. Members of the Homelessness Appeals Sub-Committee shall be entitled to nominate substitute members to attend any meeting of the Homelessness Appeals Sub-Committee (in accordance with Standing Order 6.4).

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. Meetings shall be called by Notice issued by the Chief Executive. The Notice shall specify the agenda for the meeting and shall be accompanied by the relative reports to be discussed at the meeting. No additional business shall be discussed.
3. The agenda shall, whenever possible, be issued seven days prior to the meeting.
4. Meetings of the Homelessness Appeals Sub-Committee shall be held in private, due to the confidential nature of the business.

F Reporting Arrangements

1. The Clerk shall be responsible for taking minutes of the meetings of the Homelessness Appeals Sub-Committee.
2. Minutes shall be presented to the Homelessness Appeals Sub-Committee for approval.

G Miscellaneous

COMMON GOOD COMMITTEES

A Remit and Powers

1. Common Good Funds are the assets and income of some former Burghs of East Lothian. They represent a substantial portfolio of land, property and investments and by law continue to exist for the Common Good of the inhabitants of the former Burghs to which they relate.
2. East Lothian Council has a wide discretion over the use of its Common Good Funds so long as they are applied for the benefit of the community using reasonable judgement and having regard to the interests of the inhabitants of the former Burgh.
3. Council will approve an annual budget for each of the Common Good Funds that will include provision for the maintenance of assets and any committed items of expenditure.
4. The Common Good Committee for each area will administer its own Common Good Funds with support from officers.
5. Each Common Good Committee has authority to:
 - Award a grant of up to £10,000
 - Approve revenues expenditure of up to £10,000 for the maintenance of the assets of the fund provided that can be met within the approved budget.
6. Each application for a grant will be considered on its own merits. The Committee must consider whether or not it is a reasonable judgement for them to consider making a disbursement of funds from the Common Good Fund for the benefit of the Community. This can, for example, include expenditure on:
 - The expense of civic ceremonies and of the provision of suitable hospitality on appropriate occasions and for appropriate persons and guests
 - Applications from individuals and groups where the grant of the application would benefit the community as a whole
 - Firework displays, where appropriate

Note – this list is representative only and does not preclude other awards that are thought appropriate.

7. The Common Good Committees ~~may~~ make recommendations to the Head of Council Resources in relation to expenditure over £10,000. The Head of Council Resources, ~~on receipt of the recommendation,~~ will prepare a report for Council referencing any such recommendations received but making their own recommendation taking into budgetary considerations. Council will make the decision on any matter involving expenditure of more than £10,000.
8. No officer of the Council has delegated power to commit Common Good Funds.

B Membership and Attendance

1. Each Common Good Committee will consist of all the Councillors for those areas, namely:

Musselburgh – all 4 Musselburgh Councillors
Haddington – all 4 Haddington and Lammermuir Councillors
North Berwick – all 3 North Berwick Coastal Councillors
Dunbar – all 3 Dunbar and East Linton Councillors

2. Meetings of Common Good Committees may be attended only by Councillors who are members of that Committee.

C Quorum

1. For the Musselburgh and Haddington Common Good Committees the quorum is 3. For the North Berwick and Dunbar Common Good Committees the quorum is 2.

D Substitutes

1. There shall be no substitutes.

E Meetings

1. ~~Meetings shall take place in accordance with Standing Order 4. Each Common Good Committee will meet quarterly, although it may meet more or less frequently as business dictates.~~

F Reporting Arrangements

1. A six-monthly report detailing all discretionary grant awards for each fund will be prepared by the Head of Council Resources and will be lodged in the Members' Library and made available electronically to all Members of the appropriate Common Good Committee.

G Miscellaneous

1. The Chair will be appointed by a vote at the start of the first meeting following the local government election and will hold that post until the next local government election.
2. Decisions of the Committee will be taken by a simple majority of those present following a show of hands. In the event of a tie, the Chair will have a casting vote.

EDUCATION COMMITTEE

A Remit and Powers

1. The development, determination and review of policy and associated matters relating to Education.

B Membership and Attendance

1. ~~4.~~—The membership of the Education Committee shall include a Convener and, if desired, a Depute Convener. It shall also include religious representatives and a trades union representative, who shall have full voting rights. The Council shall determine the membership of the Education Committee. In appointing councillors to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Sub-Committee by way of reducing the number of places on the Sub-Committee or by appointing members of any political group/independent councillors to the vacant places. Regardless of the political composition of the Sub-Committee, it should act with political neutrality.
2. Councillors who are not members of the Education Committee will have the right to attend meetings of the Committee and to question officers on any matter under consideration.

C Quorum

1. Half + 1 of the places filled.
- ~~2. 9 Councillor Members where a resolution to dismiss a teacher is to be considered~~

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D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4..

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Education Committee.
2. Minutes shall be presented to the Education Committee for approval.

G Miscellaneous

1. Decisions of the Committee on functions delegated to them shall be reported to the Council for information only unless the Committee resolves that a particular item of business should be referred to the Council for decision.

EDUCATION APPEALS COMMITTEE

A Remit and Powers

1. The Education (Scotland) Act 1980 set a duty on local authorities to set up and maintain Education Appeals Committees to consider:
 - (i) appeals from parents who have had their placing requests for a specific school for their children refused; and
 - (ii) appeals from parents whose child has been excluded from school.

B Membership and Attendance

- ~~1.~~ ~~4.~~ The membership of the Education Appeals Committee shall comprise one Elected Member from among the membership of the Council (but usually the Cabinet Spokesperson for Education & Children's Services), one person from a list comprising parents with pupils of school age nominated by the Parent Councils, and one person selected from a list comprising persons with experience in education or who are acquainted with educational conditions in East Lothian, nominated by the Depute Chief Executive (Resources and People Services).

- ~~4.2.~~ Only the Councillor (or their nominated substitute) selected to participate in the appeals process will have the right to attend and participate in the meeting.

C Quorum

1. 3 Members

D Substitutes

1. Members of the Education Appeals Committee shall be entitled to nominate substitute members provided that they are eligible in terms of (B) above, and in accordance with Standing Order 6.4.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. Meetings of the Education Appeals Committee shall be held in private, due to the confidential nature of the business.

F Reporting Arrangements

1. The Clerk shall be responsible for taking minutes of the meetings of the Education Appeals Committee.
2. Minutes shall be presented to the Education Committee for noting.

G Miscellaneous

LOCAL REVIEW BODY (PLANNING)

A Remit and Powers

1. *The following business and functions are delegated by the Council to the Local Review Body.*

To conduct reviews in accordance with Section 43A(8) of the Town and Country Planning (Scotland) Act 1997, where the Service Manager - Planning as the appointed person for the purpose of determining applications for 'Local Developments' as defined under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008:

- (a) Has refused an application for planning permission or for consent, agreement or approval,
- (b) Has granted it subject to conditions, or
- (c) Has not determined it within such period as may be prescribed by regulations or a development order

The Local Review Body shall at all times conduct its affairs in accordance with the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

B Membership and Attendance

1. The membership of the Local Review Body shall comprise up to five members of the Council drawn from the Planning Committee who have not expressed a prior view on the application. Local Members shall be permitted to sit on a Local Review Body that is considering an application affecting land in their Ward.

2. Where a Local Review Body considers an application on more than one occasion, the same members must make up the Local Review Body each time the application is considered.

- 2-3. All Councillors will have the right to attend meetings of the Local Review Body, but only those selected to take part in the review process will have the right to participate in the meeting.

C Quorum

1. 3 Members

D. Substitutes

1. Substitutes (from among the members of the Planning Committee) shall be permitted.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. A Planning Adviser and a Legal Adviser shall attend all meetings of the Local Review Body to provide planning and legal advice relevant to the business

before the Local Review Body. The Planning and Legal Advisers should not have had direct prior involvement with the application that is subject to review.

3. The Local Review Body may appoint an 'assessor' to sit with it at any meeting in order to advise it on any specialist matters arising.
4. The Local Review Body may, other than where they consider that the review documents provide sufficient information to enable them to determine the review without further procedure, determine the review by:
 - a. means of written submissions,
 - b. holding one or more hearing sessions
 - c. means of a site inspection, or
 - d. a combination of these procedures
5. The purpose of the review by the Local Review Body is to reassess the decision on the application taken by the 'Appointed Person'. Normally reviews will be undertaken and completed by means of considering only the material available and considered by the appointed officer who determined the application and the statement submitted by the Appellant setting out reasons for requesting the review. New material will only be allowed at the discretion of the Local Review Body and then only in exceptional circumstances.
6. The Local Review Body may decide to hold a Hearing if this is required, but in such event this will only be to consider those matters upon which the Local Review Body requires further information.
7. Other than at a hearing, there shall be no automatic right for the Appellant or interested parties to address the Local Review Body.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Local Review Body.
2. Minutes shall be presented to the Council for noting.

G Miscellaneous

1. *Site Visits*
 - (a) Site visits will be held as standard for all applications and will take place prior to the Local Review Body considering the application.
 - (b) The purpose of site visits is to provide Members with an opportunity to make themselves aware of the land and/or buildings subject of the application or which might be affected by the application – there will be no presentation by the parties or discussion of the merits of the application.
 - (c) All members of the Local Review Body must attend the site visit. A minute will not be taken.
 - (d) Appellants and interested parties who have submitted individual written representations may be invited to attend the site visit, where appropriate, on the understanding they do so solely to point out to Members relevant

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features of the application site or the land/buildings which might be affected by the application.

- (e) Where a petition has been submitted the organiser of the petition will be advised of the site visit – individual signatories will not be advised.

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PETITIONS AND COMMUNITY EMPOWERMENT REVIEW COMMITTEE

A Remit and Powers

Petitions

1. The remit of the Committee in respect of petitions shall be to consider petitions raised by local residents or organisations, which relate to either:
 - (i) Council services or activities; or
 - (ii) the general well-being of the East Lothian community
2. Petitions shall be referred to the Committee if the issue has not been resolved by any other means. The Committee shall consider the merits of each petition received. Where the Committee considers that action should be taken in respect of a petition, it shall refer the matter to the appropriate committee or Chief Officer for further consideration and possible implementation. In such cases the outcome of the matter shall be reported back to the next meeting of the Petitions and Community Empowerment Review Committee.

Community Asset Transfer Reviews

3. The remit of the Committee in respect of community asset transfer reviews shall be to consider requests for reviews of asset transfer decisions submitted by community transfer bodies where:
 - (i) the Council has refused the request;
 - (ii) the request has been agreed, but the terms and conditions in the decision notice are significantly different from those in the request; or
 - (iii) no decision notice has been issued by the Council within the required period.

B Membership and Attendance

1. The membership of the Petitions and Community Empowerment Review Committee shall consist of the Provost (Convener) and the leaders of all political groups.
 2. Councillors who are not members of the Petitions and Community Empowerment Review Committee will have the right to attend meetings of the Committee, but only the members of the Committee (or their substitutes) will have the right to participate in the meeting.

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C Quorum

1. Half the membership + 1

D Substitutes

1. Members of the Petitions and Community Empowerment Review Committee shall be entitled to nominate substitute members from within their own political group to attend any meeting of the Petitions Committee (in accordance with Standing Order 6.4).

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. Where a petition is to be considered by the Committee, the organiser of the petition will be invited to attend and be offered the opportunity to address the Committee – individual signatories will not be invited. Invitations will be sent no later than the date the agenda is issued.
3. Anyone wishing to address the Committee should advise the Clerk no later than three working days before the meeting so that seating, timetable and other arrangements can be made.
4. Petitioners will be allowed five minutes to address the Committee – this period may be extended at the discretion of the Convener.
5. Where a petition is continued until a future meeting of the Committee the same rights to attend and speak at the meeting shall apply.
6. Where a community asset transfer review is to be carried out by the Committee, further information may be sought from interested parties in advance of the meeting; this information will be published on the Council's website. The Committee may invite interested parties to the meeting, if required. Invitations will be sent no later than the date the agenda is issued.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Petitions and Community Empowerment Review Committee.
2. Minutes shall be presented to the Petitions and Community Empowerment Review Committee for approval.
3. Where a petition has been accepted, the outcome shall be reported to the organiser of the petition on approval of the minutes.
4. The terms of the decision notice for a community asset transfer review shall be determined by the Committee and reported to the community asset transfer body. It shall also be published on the Council's website.

G Miscellaneous

1. Decisions of the Committee on functions delegated to them shall be reported to the Council for information only unless the Committee resolves that a particular item of business should be referred to the Council or another committee for decision.
2. As regards community asset transfers, appeals can be submitted to Scottish Ministers by community asset transfer bodies where:
 - (i) they are unhappy with the outcome of the Council's review; or
 - (ii) following agreement to an asset transfer request, the Council has not concluded the contract within the agreed time period, as set out in Appendix 3 of the East Lothian Council Community Asset Transfer Policy and Guidance. Requests for appeals must be made in writing to Scottish Ministers within 20 working days from the date of the decision

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notice of the review. The procedures for appeals are set out in Section 20 of the Asset Transfer Guidance for Community Transfer Bodies.

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PLANNING COMMITTEE

A Remit and Powers

The following business and functions are delegated by the Council to the Planning Committee.

The development, determination and implementation of policy and associated matters relating to:-

1. *Planning Applications*
 - (a) determination of planning applications and related consents and the taking of any actions required for the enforcement of planning control as provided for under the Town and Country Planning Acts and related legislation;
 - (b) hearing of appeals against a refusal to grant a Relaxation under the Building (Scotland) Acts;
 - (c) confirmation of orders under Section 10 and 13 of the Building (Scotland) Acts.
2. *Pre-determination Hearings*
 - (a) The holding of Pre-Determination Hearings where required in terms of S38A of the Town and Country Planning (Scotland) Act 1997 and associated regulations.
3. *Pre-application Discussions of Major Applications*
 - (a) The holding of formal pre-application discussions of major and national applications, in accordance with Scottish Government/CoSLA guidance and the Council's procedures for these.
4. *Tree Preservation*
 - (a) determination of confirmation of Tree Preservation Orders where there are outstanding objections.

B Membership and Attendance

~~1.~~ ~~4.~~—The membership of the Planning Committee shall include a Convener and, if desired, a Depute Convener. The Council shall determine the membership of the Planning Committee. In appointing councillors to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of reducing the number of places on the Committee, or by appointing members of any political group/independent councillors to the vacant places. Regardless of the political composition of the Committee, it should act with political neutrality.

~~4.2.~~ Councillors who are not members of the Planning Committee will have the right to attend meetings of the Committee and to question officers on any matter under consideration. Local ward Councillors who are not members of the

Committee will also have the right to make a statement on applications for development within their ward.

32. For the purposes of carrying out Pre-Determination Hearings, the Planning Committee shall comprise all Members of the Council.

C Quorum

1. Half + 1 of the places filled.

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. All letters of representation will be made available to all Councillors in advance of an application being submitted to Committee.
3. Where an application has been referred to Committee, applicants/agents and third parties who have submitted individual written representations will be advised that they are welcome to attend the Committee meeting, but restrictions on addressing the Committee will apply, as set out below:
- There will be a maximum of three representatives speaking in favour of an application, including the applicant/agent (who will get priority)
 - There will be a maximum of three representatives speaking in opposition to an application. A 'first come, first served' approach will be adopted, with all those who have submitted representations being advised that they will need to call the clerk at a certain time on a certain day to register their intention to address the committee. The first three requests received will be granted*, and any subsequent requests will be refused.
- * In addition to the representations outlined above, Community Councils will be given the opportunity to address the Committee, where they have made a request to do so.
4. Those applicants/agents and third parties who have been invited to address the Committee will be allowed five minutes to address the Committee – this period may be extended at the discretion of the Convener.
5. Where several parties share a view on an application they will be invited to elect a single representative to speak on their behalf.
6. Applicants will be invited to make a single presentation rather than calling a sequence of professional advisers.
7. Where an application is continued until a future meeting of the Committee the same rights to attend and speak at the meeting shall apply.
8. Pre-determination hearings, which consider major developments, will continue to include representations from applicants, agents and individuals as this is a statutory part of that particular process.

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9. Pre-application discussions of major applications will include representation from applicants. Site visits will be held as part of the normal site visit schedule. Councillors will discuss proposals in accordance with the terms of the Councillors' Code of Conduct.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Planning Committee.
2. Minutes shall be presented to the Planning Committee for approval.

G Miscellaneous

1. Decisions of the Committee on functions delegated to them shall be reported to the Council for information only unless the Committee resolves that a particular item of business should be referred to the Council for decision.
2. *Site Visits*
 - (a) Site visits will be held in advance of the meeting of the Planning Committee.
 - (b) The purpose of site visits is to provide Members with an opportunity to make themselves aware of the land and/or buildings subject of the application or which might be affected by the application – there will be no presentation by the Appointed Officer or staff or discussion of the merits of the application.
 - (c) Site visits will not form part of the formal business of the Committee, i.e. there will be no requirement for a quorum nor will a minute be taken.
 - (d) Applicants/agents will be invited to attend the site visit, but only for the purpose of answering questions from Members.
 - (e) Third parties who have submitted individual written representations will be advised that site visit will be taking place for the purpose of Members familiarising themselves with the site, but those individuals/groups will not be invited to attend the site visit.
 - (f) It will be assumed that Members who do not attend the site visit will be familiar with the site or will take other steps to ensure they have sufficient knowledge to make an informed decision.

POLICE, FIRE AND COMMUNITY SAFETY SCRUTINY COMMITTEE

A Remit and Powers

1. The following business and functions are delegated by the Council to the Police, Fire and Community Safety Scrutiny Committee:
 - To carry out scrutiny of the performance of the Police and Fire & Rescue Services in East Lothian, with specific reference to each organisation's Local Plan
 - To receive and comment on local quarterly performance reports from Police Scotland and the Scottish Fire & Rescue Service
 - To engage in the development of Police Scotland and the Scottish Fire & Rescue Service Local Plans and joint working with the Police and Fire & Rescue Services
 - To consider and respond to national and local level strategies and policies of Police Scotland and the Scottish Fire & Rescue Service
 - To scrutinise and monitor the Service Level Agreement between the Council and Police Scotland
 - To receive and comment on reports on the performance of any other services performing a community safety function in East Lothian.

B Membership and Attendance

1. The membership of the Police, Fire and Community Services Scrutiny Committee shall include a Convener and a Depute Convener. The Council shall determine the membership of the Police, Fire and Community Services Scrutiny Committee. In appointing councillors to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of reducing the number of places on the Committee, or by appointing members of any political group/independent councillors to the vacant places.
2. In the absence of the Convener and Depute Convener at a meeting the other Members of the Committee shall appoint an alternative Chairperson for the duration of that meeting.
3. Councillors who are not members of the Police, Fire and Community Safety Scrutiny Committee will have the right to attend meetings of the Committee and to question officers on any matter under consideration.

C Quorum

1. Half + 1 of the places filled.

D Substitutes

1. There shall be no substitutes.

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E Meetings

1. Meetings shall take place in accordance with Standing Order 4.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Police, Fire and Community Services Scrutiny Committee.
2. Minutes shall be presented to the Police, Fire and Community Services Scrutiny Committee for approval.
3. The Committee can refer any item of business to the Council, in which case a report shall be placed on the agenda of the next appropriate meeting.

G Miscellaneous

1. The Police, Fire and Community Services Scrutiny Committee will be entitled to appoint ad hoc (short-life) sub-committees. The Committee or its sub-committees will be entitled to undertake reviews of policies and/or performance relating to Community Safety matters, to call upon the Council and Council officials for reports, and to require the attendance for the purpose of questioning, of any Cabinet Spokespersons and/or officials of the Council on any matter relevant to the issue under consideration by them.
2. The Committee will be entitled to invite representatives of other public agencies, local communities, the private and voluntary sectors, trade unions and academic institutions to assist with reviews of policies and/or performance. Also, it will be entitled to call appropriate expert witnesses, commission appropriate research and hold evidence gathering meetings.
3. The Committee will have the power to comment on, and make recommendations on matters insofar as relevant to its authorised remit, where appropriate, to the Council.

POLICY & PERFORMANCE REVIEW COMMITTEE

A Remit and Powers

The following business and functions are delegated by the Council to the Policy & Performance Review Committee:

1. *All matters relating to the performance of all the Council's services including, but not limited to:*
 - Vision and direction setting by Members
 - Integration of vision, direction and community planning priorities and actions into internal mechanisms (including service plans)
 - Mechanisms and initiatives for improvement (e.g. benchmarking)
 - Public performance reporting and public accountability
 - Consultation and communication with communities
 - Planning and performance against actions and targets including financial position and performance, priority/risk based resource management and asset management
 - Mainstreaming of equality issues and sustainable development
 - External scrutiny/assessment recommendations and resulting action planning
 - Management of joint working
 - Best Value reviews and option appraisal
 - Contracting issues
 - Scrutiny of policies identified through an annual work plan or other aspect of its work

B Membership and Attendance

1. The membership of the Policy & Performance Review Committee shall include a Convener and a Depute Convener. The Council shall determine the membership of the Policy & Performance Review Committee. Membership of the Committee should be drawn only from non-Cabinet Members of the Council. In appointing Members to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of reducing the number of places on the Committee, or by appointing members of any political group/independent councillors to the vacant places. Regardless of the political composition of the Committee, it should act with political neutrality.
- ~~2.~~ 2.—In the absence of the Convener and Depute Convener at a meeting the other Members of the Committee shall appoint an alternative Chairperson for the duration of that meeting.
- ~~3.~~ 3. Councillors who are not members of the Policy & Performance Review Committee will have the right to attend meetings of the Committee and to question officers on any matter under consideration.

C Quorum

1. Half + 1 of the places filled.

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.

F Reporting Arrangements

1. The clerk shall be responsible for taking minutes of the meetings of the Policy & Performance Review Committee.
2. Minutes shall be presented to the Policy & Performance Review Committee for approval.
3. The Committee can refer any item of business to the Council, Cabinet or the relevant Committee, in which case a report shall be prepared by the relevant officer and placed on the agenda of the next appropriate meeting.

G Miscellaneous

1. The Policy & Performance Review Committee will be entitled to debate the terms of reports insofar as relevant to its authorised remit. No formal votes will be taken and the Committee will attempt to reach a consensus, or failing that, a majority view.
2. The Committee will be entitled to appoint ad hoc (short life) sub-committees. The Committee or its sub-committees will be entitled to undertake reviews of policies and/or performance, to call upon the Council and Council officials for reports, and to require the attendance for the purpose of questioning, of Committee Conveners and/or Depute Conveners and/or Cabinet Spokespersons and/or officials of the Council on any matter relevant to the issue under consideration by them.
3. The Committee will be entitled to invite representatives of other public agencies, local communities, the private and voluntary sectors, trade unions and academic institutions to assist with reviews of policies and/or performance. Also, it will be entitled to call appropriate expert witnesses, commission appropriate research and hold evidence gathering meetings.
4. The Committee will have the power to comment on, and make recommendations on, matters insofar as relevant to its authorised remit to the relevant Committee, the Cabinet or, where appropriate, to the Council.
5. The Convener or other nominated representative of the Committee will be entitled to speak to reports of the Committee submitted to the relevant Committee, the Cabinet or, as appropriate, the Council.

ASSOCIATED COMMITTEES

JOINT CONSULTATIVE COMMITTEE

A Remit and Powers

The functions of the Joint Consultative Committee (JCC) shall be:

1. to provide a means of regular consultation between the Council and employees, providing a forum for the discussion of matters of mutual interest provided that no question of an individual's pay, wage, grading, discipline, promotion or efficiency shall be within the scope of the JCC;
2. to consider and offer observations on any proposals made by the Council involving substantial administration re-organisation on the extent to which it affects the pay and conditions of employment of the employees of the Council;
3. to consider reports on any matter, which may be referred to the JCC by the Council or by any employee organisation. The Committee shall have the right to invite the attendance of any officer of the Council, or any other person or persons to act in an advisory capacity to any meeting of the Committee. It shall be within the discretion of either side to refer to the appropriate National Joint Council or other negotiating body for advice and guidance on any matter brought before the Committee;
4. to act as a consultative forum on matters pertaining to equal opportunities in employment insofar as they concern the Council's HR Policies and Procedures and its statutory duties, taking advice and guidance from the appropriate statutory bodies as required.

B Membership and Attendance

1. The Joint Consultative Committee shall appoint from amongst its members a Convener and Depute Convener who will alternate their duties on an annual basis. If the Convener appointed is one of the Council's representatives, the Depute Convener shall be one of the employee representatives and vice versa. The Convener and, in his/her absence, the Depute Convener shall preside at the meetings of the JCC. In the absence of both, the members present shall elect one of the members to preside. The Convener of the meeting shall not have a casting vote.
2. The membership of the JCC shall be 8 representatives appointed by the Council and 14 representatives (who shall be employees of the Council) of the Trades Unions recognised by the Council as follows: Unison – 7; Unite – ~~2~~⁴; GMB – 1; ~~UCATT~~¹; EIS – 3; NASUWT/SSTA – 1.
3. The Council shall determine the councillor membership of the JCC. In appointing councillors to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of appointing members of any political group/independent councillors to the vacant places.
4. The members representing the staff shall be appointed amongst the employees of the Council in accordance with the rules of the participating Trades Unions

for the making of such appointments. All staff representative members of the JCC shall cease to hold office on leaving the employment of the Council.

5. Any vacancy on the JCC shall be filled by the appointing organisation.
6. The employee representatives shall appoint an Employee Side Secretary to the JCC from amongst their members.
7. ~~Only those Councillors appointed to the Joint Consultative Committee, or their substitutes, will have the right to attend and participate in meetings.~~

C Quorum

1. 3 members from the Council side
3 members from the Union side from not less than 2 Unions

D Substitutes

1. Members of the JCC shall be entitled to nominate substitute members to attend any meeting of the JCC. Substitute members representing the Council must be members of the Cabinet. Substitute members representing the Staff Side must be from the relevant Trades Union and be a Council employee. Substitute members shall be identified at the beginning of any meeting they attend.

E Meetings

1. Meetings shall take place in accordance with Standing Order 4.
2. An Agenda Sub-Committee, at Officer/Trades Union level, shall be established to facilitate the work of the JCC.
3. The JCC may establish sub-committees to facilitate consideration of specific matters.
4. Meetings of the Joint Consultative Committee shall be held in private, due to the confidential nature of the business.

F Reporting Arrangements

1. The Clerk shall be responsible for taking minutes of the meetings of the Joint Consultative Committee.
2. Minutes shall be presented to the JCC for approval.

G Miscellaneous

1. Matters relating to Local and National agreements/procedures which are specific to a group or groups of employees must, at the request of the Trades Union(s) concerned, be considered by a sub-committee of the JCC, with the Trades Union side consisting only of the Trades Union(s) recognised and represented on the relevant National Joint Council. Agreements made at such sub-committees shall be a matter only of reporting to the JCC prior to reporting to the Council or relevant Committee.
2. Employee members of East Lothian JCC will be granted paid leave for meetings of the JCC and for pre-meetings of the Staff Side. Where required,

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cover will be in addition to the 'Policy for Time-Off for Trades Unions Duties and Activities'. The Council shall provide the necessary accommodation for meetings of the JCC, JCC sub-committees and Staff Side pre-meetings of the JCC.

3. The Council shall provide the necessary accommodation for meetings of the JCC and also facilities for requests for time off work from employee representatives of the JCC.

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MUSSELBURGH RACING ASSOCIATED COMMITTEE

A Remit and Powers

To act in accordance with the relevant policies and procedures of East Lothian Council in force and as may be amended from time to time.

To provide, organise, safeguard, maintain, develop and improve, or assist in the provision, organisation, safeguarding, maintenance, development and improvement of horse racing and facilities for horseracing at Musselburgh Links, to manage and organise horse racing thereon, and to carry out such other related and ancillary function or functions as may be appropriate from time to time, to include all or any of the following:

1. to agree a strategy for the operation of Musselburgh Racecourse and to monitor progress and regularly review and update the strategy as and when required;
2. to approve revenue and capital budgets and year-end accounts. In addition, to monitor quarterly the financial position of the Racecourse and to generally supervise the operation of the Racecourse;
3. to approve, subject to the approval of the British Horse Racing Authority (or such other regulatory authority to which the duties of the British Horse Racing Authority shall devolve) the dates of race meetings to be held on the Racecourse;
4. to approve the amount of prize money to be paid in respect of racing events at such meetings;
5. to approve charges or admission for such race meetings and for the parking of motor cars on land in the control of the Musselburgh Racing Associated Committee at times when such meetings are held;
6. to agree the recruitment and remuneration to be paid to persons employed in connection with such race meetings and generally in the operation of the Racecourse;
7. to make all arrangements in connection with such race meetings for the provision of meals and refreshments and catering generally, the letting and hiring of stands for the sale of any articles and the display of advertisements within all enclosures and for advertising and general publicity;
8. to approve any supplier contract of more than 12 months' duration;
9. to approve any individual capital expenditure relating to the Racecourse;
10. to approve any substantial alteration in, or addition to, the nature of activities undertaken at the Racecourse, in particular where such change is outside of the agreed overall strategy set by the Committee;
11. to approve the disposal of any moveable assets associated directly with the Racecourse;

12. to make all arrangements for the carrying out of improvements to land managed by the Musselburgh Racing Associated Committee and for the general maintenance and upkeep of said land and of any buildings, stands, rails, posts, fences and other apparatus erected thereon;
13. to seek to maximise the use of the infrastructure used for the purposes of the Racecourse and income therefrom for both racing and non-racing purposes, insofar as such use does not detract from or interfere with the operation of the Racecourse for its primary purpose or horse racing or contravene Common Good restrictions and does not otherwise cause disturbance to and widespread opposition from residents in the immediate vicinity of the Racecourse. For the avoidance of doubt, no such resident or residents shall be able to rely on the terms of this paragraph as giving them any right, title or interest to object to, or raise any proceedings in respect of, any such purpose or activity;
14. to appoint a General Manager to oversee the operation of the Racecourse, declaring that such an appointment shall require the agreement of at least five of the members of the Musselburgh Racing Associated Committee before it is approved, and to approved a Scheme of Delegation granting authority to the General Manager and other officers as the Musselburgh Racing Associated Committee consider appropriate to ensure the efficient and effective operation of the Racecourse. For the avoidance of doubt, there requires to be agreement of five members of the MRAC prior to dismissal of the General Manager;
15. in the event that the Council decides that the Racecourse is best operated through an arms-length external operator or a third party then, on appointment of the operator (but prior to the commencement of the transfer of the business to this operator) the General Manager's job title shall be changed to Chief Executive.

B Membership and Attendance

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1. The membership of the Musselburgh Racing Associated Committee shall comprise 4 councillors and 2 independent members with knowledge and experience of the racing industry approved by the Council. The Convener of the Committee requires to be a Council representative and will be appointed by the Council. The Council shall determine the councillor membership of the Musselburgh Racing Associated Committee. In appointing councillors to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of appointing members of any political group/independent councillors to the vacant places.

C Quorum

1. Four members, comprising at least one non-councillor member

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall be called by the Chief Executive of the Council. The notice shall specify the agenda for the meeting and shall be accompanied by the reports to be discussed at the meeting.
2. Meetings may also be called by written requisition of the non-councillor members addressed and sent to the Council's Chief Executive specifying the agenda for the meeting. Where such a written requisition is made, the Council's Chief Executive shall, within 21 days, issue the notice calling the meeting.
3. The agenda shall, whenever possible, be issued seven days prior to the meeting.
4. Meetings of the Musselburgh Racing Associated Committee will, where appropriate, be held in public.
5. In the event of a tied vote, the Convener will have a casting vote.
6. In the absence of the Convener at a meeting, the Council members of the Committee will nominate a substitute Convener.

F Reporting Arrangements

1. An official of the Council shall be responsible for taking minutes of the meetings of the Musselburgh Racing Associated Committee, and the minutes shall be submitted to the next convenient meeting of the Musselburgh Racing Associated Committee for approval. Notwithstanding this arrangement, a copy of the draft minutes shall be issued to members of the Musselburgh Racing Associated Committee within 21 days of the meeting to which they refer.

G Miscellaneous

1. The remit of the Musselburgh Racing Associated Committee shall not be amended without the agreement of at least five of the members of the Committee. Any such amendment shall also require the approval of the Council before it is implemented.

COUNCILLORS' ROLE DESCRIPTIONS

Nature and Requirements of the Role

Councillors in Scotland are elected in groups of 3 or 4 to represent the interests of around 15,000 people living within their ward. While it is common for those councillors to be elected as a member of a political party, their focus should be on working together in the interests of all their residents and in the interests of the Council as a whole.

Councils and councillors are responsible for delivery of a wide range of local services that are affected by community requirements including education, social work, planning, housing, roads, licensing and community services like libraries, sports, pools, playgrounds, and recreation.

As well as the prime duty of ensuring a fair, efficient and equitable distribution of council services among their residents and the secondary duty of providing an objective route for complaint when this is perceived not to be the case, councillors also have a duty to lead and to give guidance to the people's voice in forming a vision for their future and seeking optimal methods to achieve it. This involves acting as an 'honest broker' between people's ambitions and the practical problems of funding, formulating and achieving such ambitions. Patience, intuition and an ability to adopt causes not your own will go a long way to discharging the objective duty inherent in the job as all decision made are accountable to the public.

The more pragmatic specific legal requirements of being a councillor are to sign a declaration of office, attend at least one meeting of the Council or any of its committees or sub-committees or carry out some other approved duty in a six month period and to make appropriate entries in the Register of Members' Interests. More than that, Councillors have a duty to uphold the law at all times while acting in accordance with the public trust placed in them.

Whenever engaged on Council business, councillors are obliged to comply fully with the Council's Standing Orders, including those regarding the conduct of meetings and to meet all requirements of the Councillors' Code of Conduct. It is the responsibility of all councillors to maintain the highest standards of conduct and through their actions promote the core values of the Council, provide an example to others and maintain and strengthen the public's confidence in the integrity of the Council and its councillors.

ALL COUNCILLORS

Key purpose/ roles

- To represent the views and interests of your Ward and its individual constituents and deal with enquiries and representations fairly and without prejudice
- To contribute actively to the formulation and scrutiny of the Council's policies, budgets, strategies and service delivery
- To champion the best interests of the Council and the community as they relate to the improvement of the quality of life, social, economic and environmental well-being of the community and its citizens
- To work in partnership with others in the Council, partnership organisations at council and community level to help to achieve the above

Key tasks/ accountabilities

- To represent and act as an advocate for the interests of your Ward, liaising and working with local organisations and representative groups to further the interests of the Ward and its individual constituents
- To be available to represent and deal effectively with constituents' enquiries and representation on individual and community interests
- To contribute effectively to the debates and decision making activities of the Council prior to setting policies, budgets, strategies and service delivery targets
- To participate effectively as a member of any committee or panel to which you are appointed,
- To participate in the scrutiny or performance review of the services of the Council including the scrutiny of policies and budgets and their effectiveness in achieving the Council's objectives
- To support and strive to develop an inclusive and constructive working environment and effective working relationships with other elected members and officers of the Council
- To participate in the activities of any outside body or partnership forum to which you are appointed by the Council, providing two way communications between the Council and the body. Also to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community's needs and aspirations in relation to that body's role and functions
- To liaise on behalf of the Council and represent and promote the Council's interests with other public bodies to promote better understanding and partnership working
- To act in accordance with the statutory and locally determined codes of conduct and standards for elected members and maintain the highest standards of conduct at all times

SENIOR COUNCILLORS

In addition to the roles, tasks and accountabilities expected of all councillors the following are expected of councillors with significant additional responsibilities (Cabinet members and Leader of the Opposition):

Key purpose/ roles

- To provide leadership in relation to policy formulation, implementation and monitoring of the Council's policies, budgets, strategies and service delivery in relation to your specific area of responsibility, and to contribute to the effective governance of the Council
- To contribute to the effective governance of the Council
- To ensure that your area of responsibility contributes to promoting the best interests of the Council and the community and improve the quality of life, social, economic and environmental well-being of the community and its citizens

Key tasks/ accountabilities

For your area of responsibility:

- To facilitate policy development via appropriate mechanisms – Cabinet, committees, working with officers and working in partnership with partner organisations
- To give political direction to senior officers of the Council and members of your political Group in your area of responsibility
- To chair effectively relevant committees, sub-committees and
- To take responsibility for decisions taken within these committees or other forums
- To support and encourage participation and debate by all councillors in relevant forums including committees and sub-committees and respond to scrutiny of decisions and service delivery/ performance
- To ensure that effective working relationships with all councillors, officers and relevant partner organisations are developed and maintained
- To represent and communicate the views and best interests of the Council in relevant forums including the community, the media, partnership organisations and national bodies
- To monitor, review and comment on performance and budget, to ensure that Council policies are implemented; and where necessary initiate relevant action
- To be fully aware of relevant legislative and national and local policy frameworks
- To work with others to ensure the effective governance of the authority
- To contribute to policy formation on corporate strategy, policies and overall budget matters and participate constructively in relevant forums

- To represent the Council at appropriate civic and/ or other engagements including as a substitute for the Council Leader or Provost

COUNCIL LEADER

In addition to the roles/ tasks and accountabilities expected of all councillors the following are expected of the Council Leader.

Key purpose/ roles

- To lead the political administration of the Council
- To provide leadership in relation to policy formulation, implementation and monitoring of the Council's policies, budgets, strategies and service delivery and to contribute to the effective governance of the Council
- To provide strategic leadership and clear political direction and guidance to promote the best interests of the Council and the community and improve the quality of life, social, economic and environmental well-being of the community and its citizens
- To ensure that effective working relations are developed throughout the Council and between the Council and external partners in order to promote the best interests of all its communities

Key tasks/ accountabilities

- To provide strategic, political and cultural leadership for the Council in partnership with the Chief Executive
- To give direction to the Chief Executive on political matters and participate in the performance review and development of the Chief Executive
- To have an overview and facilitate corporate and cross cutting policy formulation, strategy development and financial planning
- To promote partnership working with partner organisations and other service providers, including Community Planning partners
- To act as the principal Council representative in discussions and negotiations with national bodies
- To ensure that the political decision making structures of the Council operate effectively
- To take responsibility for, and promote the Council's policy and political decisions
- To be the political figurehead and provide an external focus for the Council including handling media and press enquiries
- To develop and maintain effective working relationships with councillors and senior officials

PROVOST

The title 'Provost' is the title given by the Council to the role of Convener of the Council elected as required under section 4 of the Local Government etc (Scotland) Act 1994. The statutory requirement of this role is to chair meetings of the full Council.

By tradition, the Provost also fulfils a unique and important function as the civic head in representing the Council and the wider East Lothian community at ceremonial and other formal events and occasions both within and outside East Lothian. The Provost is the formal representative of the Council when meeting with visiting dignitaries.

The Provost is required to ensure that the interests of all councillors are represented fairly and that they are given a fair hearing in Council meetings.

The responsibilities of all members of East Lothian Council to maintain the highest standards of conduct apply particularly to the Provost who is in a position, through personal conduct, to promote the values of the Council, to provide an example to others and to enhance the reputation of the Council and East Lothian.

In addition to the roles/ tasks and accountabilities expected of all councillors the following are expected of the Provost.

Key tasks/ accountabilities

The Provost is expected to:

- Act as civic head hosting Council events and attending other events as civic leader and representative of the Council and the East Lothian communities
- Promote East Lothian's profile to the wider community through public appearances at social, community, cultural and business events and through the media
- Foster networks with other organisations in both the business and public sectors to support and enhance the development of East Lothian and its communities
- Chair the meetings of the full Council and ensure the proper conduct of business in terms of the Council's Standing Orders and the Council's values and commitment to honesty, openness and accountability and effective scrutiny of policies and decisions
- Liaise closely with the Leader of the Council in terms of the civic roles and functions on behalf of the Council
- Promote the core values of the Council in fulfilling their remit

OTHER RELEVANT INFORMATION

It is a responsibility of all members of East Lothian Council, both through their personal conduct and through their work including contact with the people in the area they represent, the media and other agencies, to observe the highest standards of conduct and to uphold and enhance the role and reputation of the Council and the public perception of its status.

Councillors should always be able to justify their actions to the public and must at all times avoid any circumstance which could lead to the suspicion, or give the appearance of, improper conduct. They should carry out their roles and duties in a dignified manner and should never act in such a manner that they bring the Council into disrepute. The required standards of behaviour are described in the Councillors' Code of Conduct approved by the Scottish Parliament and enforced through the Standards Commission and any local arrangements applicable within East Lothian, including the Council's Standing Orders.

Provided that Councillors' fulfil the statutory requirement as to attendance at meetings, or carrying out any other approved duty, and do not incur any of the statutory disqualifications for membership or commit some offence which results in forfeiture of membership, they remain a member until the next ordinary elections when they are accountable to the electorate if they stand for election again. In a day to day context, individual Councillor's standards of conduct and performance can be regulated and monitored through, for example:

Councillors approved duties referred to above are approved by the Council for the purpose of reimbursing Councillors for travel and subsistence expenses in accordance with The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007.

Councillors are able to represent their individual and group constituents' interests within the council through various means including:

- Asking questions of the Provost, the Council Leader or a Cabinet Spokesperson at meetings of the full Council
- Pursuing matters of concern to constituents with the appropriate officials of the Council
- Putting down a motion for debate at meetings of the Council

Chairs of any Council Committee are required to act at all times in a manner to enhance the reputation of the Council in terms of fair representation, open government and accountability and as representatives of both the Council and the community, to maintain the highest standards of integrity and behaviour in accordance with the Council's Standing Orders and the Councillors' Code of Conduct approved by the Scottish Parliament and enforced by the Standards Commission and any local arrangements applicable in East Lothian.

In terms of the Council's Standing Orders, Chairs are responsible for the conduct of the meetings of their bodies including:

- Keeping order in respect of both members of their body and any members of the public present

- Ensuring that members have a fair hearing
- Regulating the participation by officers
- Ruling on all matters of procedure, competency and relevancy
- Adjourning meetings.

Chairs are required to ensure that their bodies fulfil their remits set out by the Council or in Standing Orders.

ADVICE NOTE FOR COUNCILLORS ON DISTINGUISHING BETWEEN THEIR STRATEGIC ROLE AND ANY OPERATIONAL WORK

1. Introduction

- 1.1 This Advice Note, issued by the Standards Commission for Scotland (Standards Commission), aims to provide assistance to councillors to help them in distinguishing between strategic and operational management.
- 1.2 The Advice Note suggests issues councillors should consider in order for them to ensure they undertake their scrutiny role effectively while still complying with the provisions regarding relationships with employees and decision-making in the Councillors' Code of Conduct (the Code).
- 1.3 Councillors have a personal responsibility to observe and comply with the rules in the Code. This Advice Note is intended to assist them in interpreting the provisions in the Code in order to do so and should, therefore, be read in conjunction with the Code of Conduct.
- 1.4 Audit Scotland's *How Councils Work* series and, in particular, their 2016 Report '*Roles and working relationships in councils - Are you still getting it right?*' make suggestions to help councillors drive improvement in respect of governance arrangements and to manage productive relationships with officers. Councillors are, therefore, also encouraged to refer to their work in this regard.
- 1.5 Councillors are required to provide strategic leadership and management. This involves setting strategy, planning, scrutinising and making major, complex decisions that concern the Council as a whole. Councillors are not, however, responsible for operational management, which is the planning, organising and execution involved in day to day activities. This is role of officers.
- 1.6 This Advice Note aims to help councillors distinguish between strategic and operational management so that they do not become inappropriately involved in the officers' role.
- 1.7 It is recognised, however, that councillors are also required to be involved in certain operational matters when:
- Undertaking advocacy work (lobbying or campaigning);
 - Representing constituents (case work); and
 - Taking decisions on quasi-judicial or regulatory applications (in role on any regulatory, appeals and appointment committees).

This Advice Note also aims, therefore, to provide advice about how to balance these more operational aspects of a councillors' role with their strategic role. It also provides advice about

how to avoid conflicts when undertaking the decision-making role on any regulatory, appeals and appointment committees.

2. Relevant Provisions in the Councillors' Code of Conduct

- 2.1 The Code contains provisions relating to the differences between the responsibilities of elected members and Council employees. Specific applicable paragraphs in the Code include:

Relationships with Employees (including those employed by contractors providing services to the Council)

- 3.3 *You must respect all Council employees and the role they play, and treat them with courtesy at all times. It is expected that employees will show the same consideration in return.*
- 3.4 *Whilst both you and Council employees are servants of the public, you have separate responsibilities: you are responsible to the electorate but the employee is responsible to the Council as his or her employer. You must respect the different roles that you and an employee play. Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and senior employees to help ensure that the policies of the Council are implemented.*
- 3.5 *You must follow the Protocol for Relations between Councillors and Employees attached at Annex C of the Code of Conduct. A breach of the Protocol will be considered as a breach of this Code.*

Annex C

- 2 *Councillors and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.*
- 4 *Within a Council, councillors have a number of different roles, all of which call for separate consideration. Some councillors are chairs of committees, most belong to political groups, and all have a local ward to represent.*
- 16 *All councillors represent part of the area of the Council. Within each Council's rules about consultation and councillor involvement, employees must treat all councillors fairly and openly in their role as local representatives. When performing their local representative role, councillors will be seen by the public as representing the Council and should act in accordance with the principles of the Code of Conduct for Councillors and this protocol.*

3. Strategic and Operational Management

- 3.1 The work of a Council is a team effort, in which the role and work of councillors is balanced with, and complemented by, the role and work of officers. As a councillor, your role is to determine policy and to participate in decisions on matters placed before you. It is not to engage in direct operational management of the Council's services. Your role is to:
- provide strategic leadership; to ensure financial stewardship is achieved through the efficient, economic and effective use of resources; and

- hold the Chief Executive and senior management team to account by scrutinising the implementation of policies, procedure and expenditure.

Your scrutiny role should be undertaken with a view to making recommendations for improvement and should not be used to direct or instruct officers to change specific operational decisions. You may also be involved in determining the steps needed to deal with changes which are likely to impact on the strategic aims and objectives of the Council. Your duty is also to help ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control.

- 3.2 The Local Government (Scotland) Act 1973 requires the Council to maintain a list specifying those powers which are exercisable by officers, and stating the title of the officer who exercises that power. Your Council will, therefore, have a Scheme of Delegation or Scheme of Administration intended to facilitate the efficient conduct of its business by clearly setting out the nature and extent of the powers delegated to officers by the Council. The powers delegated to officers will normally only be subject to material change by an action of the Council in accordance with its Standing Orders. A list of statutory officers can be found in the first of Audit Scotland's 'How Councils Work' series at www.audit-scotland.gov.uk/our-work/how-councils-work.
- 3.3 You should ensure you are familiar with your Council's Scheme of Delegation or Scheme of Administration. You should ensure you are aware of what decisions are to be taken by officers and the level at which they are made. You should note that they will also be many operational decisions routinely and appropriately taken by officers that will not necessarily be listed in such a scheme.
- 3.4 If a decision involves purely operational or administrative issues, with any expenditure being within existing budgets, it will usually be made by an officer without reference to elected members. It should be noted that some decisions may have both operational and strategic elements and, as such, decisions may be taken by officers following consultation with certain Members (such as the Leader or Deputy Leader, Committee Chairs, Vice Chairs or Ward Members) in order to have appropriate engagement and steer from elected members. Determining and issuing a response on behalf of the Council to a press enquiry will usually also be a matter for officers.
- 3.5 You may be obliged as a councillor, however, to make decisions on some individual planning and regulatory matters. You may also make decisions on matters of an operational nature, being individual applications, if you sit on other committees such as regulatory, appeals and appointment committees (see paragraphs 4.1 and 4.11). Before you accept such a role you should make sure you are clear as to what it will involve and that you understand how to identify, and appropriately manage, any conflicts of interest.
- 3.6 You also have a role in representing the electorate at a ward level. In doing so, you may be expected to undertake some case work on behalf of individual constituents and also to campaign on local issues (see paragraphs 4.13 to 4.21 below).
- 3.7 These concurrent obligations can sometimes make it difficult for elected members to distinguish between operational and strategic matters and to understand the extent to which they should get involved in certain issues and decisions, which can lead to difficulties as outlined below.

4. Matters to consider

- 4.1 You are expected to undertake some case work on behalf of individual constituents and also to campaign on local issues. [This can result, however, in you having a conflict of interest when it comes to decision-making, particularly in regulatory or quasi-judicial situations.] If you choose to be an advocate for or against a particular cause you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions regarding that cause.

- 4.2 Becoming inappropriately involved in operational management and / or operational decision-making will be a breach of the Councillor's Code of Conduct. It can also damage your relationship with officers and have a detrimental effect on how they perform their duties. Some examples of how a councillor might become inappropriately involved in an operational matter can be found at Annex B. You should remember that you have, or may be perceived as being in, a position of power over an officer. This means that they may feel pressured into taking a particular action or decision or to focus on the matter you are concerned with over other work, even if they have tasks that should be completed as a higher priority.
- 4.3 A failure to appropriately distinguish between strategic and operational matters will be a contravention of the Councillors' Code of Conduct. Some examples are provided at Annex A, and include cases where a councillor became too involved in a complex social care case; where a councillor failed to declare his involvement with a lobbying group when making a planning decision; and where a councillor failed to distinguish between his role as potential objector to a planning application and his role as a councillor.
- 4.4 You should consider whether any matter you are getting involved in or have asked to be involved in is strategic or operational in nature. You should bear in mind that you have a duty to act in the public interest and undertake a scrutiny role to ensure your Council uses its resources prudently and in accordance with law. Robust challenge and involvement from elected members in driving improvement of council performance at a corporate level, linked to the Council's priorities, is a key element of a commitment to delivering Best Value, as set out in the Local Government in Scotland Act 2003. This statutory duty applies to every elected councillor as well as to officers. In undertaking your scrutiny role, you are obliged to make sure service user and community views are taken into account and that the Council responds to these.
- 4.5 You should bear in mind, however, that you are a member of the Council. You have a duty to act in the interests of the Council as a whole and are representing it at all times, regardless of whether you are in the administration or not. [Although you also need to be aware of any separate responsibilities you may have as a member of an external organisation such as any charity, Health & Social Care Integration Joint Board, Arms' Length External Organisation or Regional Transport Partnership to which you have been nominated or appointed by your Council – see paragraph 5.1 for where to find more guidance on this topic]. It is understood that Councils operate in an often highly politicised environment, which can lead to tensions. However, you should be conscious of considering the overall interests of the Council even when advocating a particular political point or agenda.
- 4.6 You have a right to receive good quality information from officers on which to base your decisions and undertake your scrutiny role. This information should be proportionate, balanced, comprehensive and understandable. If you do not consider you are receiving the information you require to assure yourself that you are in a position to make informed decisions, you should raise the issue with an appropriate officer (such as the relevant Head of Service). The Improvement Service's Elected Member Induction Notebook on Standards, Ethics and Information Handling contains guidance on the type of information you are entitled to receive. Information on where to find the Notebook is provided at Section 6 of this Advice Note.
- 4.7 In dealing with officers and members of the public you should always consider both what you are expressing and the way you are expressing it. You should also consider how your conduct could be perceived. You should be able to undertake a scrutiny role, represent the public and any constituents, or make a political point in a constructive, respectful, courteous and appropriate manner without resorting to personal attacks, being offensive, abusive and / or unduly disruptive.
- 4.8 You should bear in mind that any issues relating to behaviour, performance or conduct of an officer should be raised privately with the appropriate senior manager. You should not become involved in any issues relating to individual officers' pay or terms and conditions of employment,

unless you are serving on a committee delegated to deal with such a task. Similarly, the recruitment of staff is an operational matter and should be left to officers, unless you serve on a committee that deals with the appointment of senior officers.

4.9 You must consider:

- Whether you are acting in accordance with the provisions in the Councillors' Code;
- Whether you are asking an officer to do something which could compromise them or prevent them from undertaking their duties properly and appropriately, including being unable to complete other tasks;
- Whether you are asking an officer to act against instructions of management;
- Whether you are bringing any undue influence to bear on an officer to take a certain action, particularly if it is contrary to the law or the Council's policies and procedures (bearing in mind that you may well be perceived by officers as being in a position of power);
- The nature of the officer's role and their seniority;
- Whether your actions could impact on the mutual bond of trust between councillor / members and officers; Whether you are asking an officer to do something which compromises them or could compromise them (including exposing them to disciplinary measures);
- Whether your actions result in an officer feeling pressured or threatened or adversely impact on his or her health; and
- That while you are entitled to freedom of expression under Article 10 of the European Convention on Human Rights, the right is not absolute and would not cover gratuitous, offensive or abusive personal attacks on officers or harassing, bullying or threatening officers in the course of their employment.

4.10 You should note that even if your conduct may not amount to a breach of the Code of Conduct there could well be other consequences, for example, exposing the Council to judicial review or to a grievance from an officer.

4.11 If you sit on any regulatory, appeal or appointment committee you should make sure you are familiar with the committee's standing orders / procedures and the extent of their delegated powers. You should also familiarise yourself with your Council's call-in processes, if such procedures are in place.

4.12 If you are asked to become involved in an operational matter, you need to be clear about whether you are simply being asked to assist a constituent or constituents in how to access the appropriate service or officer or whether you are advocating for or against a cause.

Assisting constituents

4.13 If, at a ward level, you are asked to provide a constituent with assistance, you should ensure you manage their expectations in terms of the extent to which you can help. For example, you should advise a constituent who has sought help with a case that while you can seek information on their behalf, you cannot overturn a decision and that they will need to follow the appropriate procedures for doing so. You should also advise the constituent that you cannot seek legal advice from the Council on their behalf or pass on any legal advice provided to the Council or by a Council officer.

4.14 You should not pursue any casework that is likely to come before you at a quasi-judicial or regulatory committee as doing so could preclude you from taking part in the discussion and voting. Again, you should explain why you cannot do so to any constituent who has asked for assistance. If you choose to pursue such casework, you should follow the guidance at paragraphs 4.22 to 4.24 below on advocating for or against a cause.

- 4.15 In order to avoid becoming inappropriately involved in operational matters and to prevent any conflicts arising, you should consider exactly what you are being asked or are offering to do on behalf of a constituent. There should be no difficulty if you have managed your constituent's expectations appropriately and are simply:
- Advising officers of representations received;
 - Helping constituents make their views known to the relevant and appropriate officer;
 - Seeking factual information on progress on behalf of a constituent; and / or
 - Advising a constituent about whom they should contact and the correct procedure to follow.
- 4.16 You should use your Council's case management system (or any equivalent agreed internal procedure), where appropriate, to record details of enquiries you make on behalf of constituents and also to keep track of any response and progress made towards resolving their query or concern. This will ensure that such an enquiry is dealt with by the appropriate officer. You should record or keep a note of any advice you give to a constituent. Some Councils have agreed procedures or protocols for the communication between councillors and officers. You should ensure that if such a protocol exists, you are familiar with it.
- 4.17 If you are unable or it is not appropriate to use the case management system (or any equivalent agreed internal procedure), you should ensure any enquiry is directed towards an appropriate officer, which will normally be an officer at a senior level who can then delegate the work as appropriate. You should bear in mind that officers are accountable to their own line managers and, even if you think you have identified an officer who you think is best placed to answer your query, you will not have knowledge of their workload and / or whether they have been asked to prioritise any other tasks.
- 4.18 If you have been asked by a constituent to help with concerns they have about a Council service or decision and / or you have identified a mistake or problem, you can ask officers to review what has happened and, what is being done to resolve the issue and to prevent it from happening again. You should ensure the constituent is aware, however, that councillor enquiries are not a substitute for any formal complaint process. You should also make your constituents aware that if decisions have been made in accordance with Council policy, it may not be appropriate for them to be reviewed.
- 4.19 You should decline to get involved if you are approached by any officer who is also a constituent in respect of any matters relating to their employment with the Council. You should advise the officer concerned to contact their line manager, trade union or follow the appropriate internal procedures for raising any such issues.
- 4.20 While you may have some experience in a particular field, you should never assume or should be wary of assuming that you have more knowledge than officers who receive specific training and who should have a good, and up to date, awareness of the Council's policies and procedures relating to the tasks they are performing.
- 4.21 If you consider an officer is not providing you with information you have a right to access or is not recognising that you have a legitimate advocacy role on behalf of constituents, you should raise your concerns with the appropriate senior manager.
- 4.22 If you are concerned that a constituent is making or has made a fraudulent claim, you may be obliged to report the matter. You should, therefore, ensure that your constituents are aware that not all information they provide to you can be kept confidential. More information and guidance on confidential information and data protection can be found in the Improvement Service's Elected Member Induction Notebook on Standards, Ethics and Information Handling.

Advocating for or against a cause / taking decisions on quasi-judicial or regulatory applications

- 4.23 If you are approached, you can listen to views expressed but you must make it clear that you cannot lend support for or make a decision on a regulatory or quasi-judicial matter until the appropriate meeting, when you have heard all the evidence. If you decide to advocate for or against a particular cause, you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions regarding that cause.
- 4.24 Where you wish to make representations on behalf of constituents or other parties, you may do so (in accordance with paragraph 7.15 of the Councillors' Code, as reproduced below), providing you do so in terms of the Council's procedures; you declare your interest in the matter; and, having made any representations, you retire fully from the meeting room (it is not sufficient to retire to a public gallery situated within the meeting room).

Representations on behalf of constituents or other parties

- 7.15 *If as part of the decision-making process you wish to make representations on behalf of constituents or other parties you may do so providing:-*
- i) you do so in terms of procedures agreed by the Council which afford equal opportunity to any parties wishing to make representations to do so,*
 - (ii) you declare your interest in the matter; and*
 - (iii) after making those representations you then retire from the meeting room.*

- 4.25 If you are making representations and, for example, you wish to support your constituents' views regarding a planning application, you should make this position clear as soon as possible to the chair of the committee and officers. Your declaration of interest should be recorded in the minutes of the meeting.

5. Further Sources of Information

- 5.1 The Standards Commission has published guidance and advice notes on how to interpret, and act in accordance with, the provisions in the Councillors' Code of Conduct, including those relating to relationships with employees. This guidance can be found on the Standards Commission's website at: www.standardscommissionscotland.org.uk/guidance/guidance-notes. The Standards Commission has also published guidance for councillors on arms' length external organisations, which seeks to assist councillors in recognising and dealing with potential conflicts of interest to minimise risks to governance and accountability arrangements. This advice can be found at: <http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.
- 5.2 The Standards Commission also publishes written decisions of Hearings held on its website, which can be found at: www.standardscommissionscotland.org.uk/cases/case-list.
- 5.3 The Improvement Service's Induction material includes guidance on Standards, Ethics and Information Handling; Corporate Governance; The Roles and Responsibilities of the Elected Member at Council Level; and The Roles and Responsibilities of the Elected Member at Ward Level. These can be found at: www.improvementservice.org.uk/elected-member-induction-materials.html.
- 5.4 The Accounts Commission's 2010 'Report on Roles and working relationships - are you getting it right?' and their 2016 Report 'Roles and working relationships in councils - Are you still getting it right?' highlight the complex and demanding role that councillors have in representing their constituents, providing strategic direction for the council, and scrutinising policy decisions and service performance. The Reports make recommendations to support councillors in their role in

order to help the drive for improvement in respect of governance arrangements. These Reports can be found at: www.audit-scotland.gov.uk/our-work/how-councils-work.

- 5.5 If you have any queries or concerns about how to interpret or act in accordance with the provisions in the Councillors' Code of Conduct, you should seek assistance from your Council's Monitoring Officer. Further information can also be obtained from the Standards Commission using the contact details outlined below.

Standards Commission for Scotland
 Room T2.21, Scottish Parliament
 Edinburgh, EH99 1SP
 Tel: 0131 348 6666
 Email: enquiries@standardscommission.org.uk.



Data control and version information				
Date	Action by	Version Updated	Current version	Brief Description
07/02/2018	LJ	N/A	V0.1	Draft Advice Note finalised and issued for consultation.
02/05/2018	LJ	V0.1	V1.0	Final Advice Note issued and published.
28/06/2018	LJ	V1.0	V1.1	Addition of Annex B
24/07/2018	LJ	V1.1	V1.2	Addition of further examples to Annex B

ANNEX A: HEARING EXAMPLES

A councillor became involved in a social care case on behalf of a constituent during which time he had made suggestions and judgements about matters such as where his constituent should be housed, contact between the constituent and her children, and the rehabilitation of one child, which he was not qualified to do.

The Hearing Panel found that the councillor was not simply articulating his constituent's concerns but was instead inappropriately trying to use his role to engage in, and exert influence over, direct operational management.

While the Hearing Panel acknowledged the councillor had a responsibility to represent his constituent, it considered in so doing, he had lost sight of his other responsibilities as a councillor and his obligation under the Code to respect the different roles of councillors and officers. The councillor pursued the interests of his constituent without any objective consideration of the children's interests or the paramount duty the Council had to ensure their safety and welfare.

The Hearing Panel noted that the councillor had an expectation that actions should be taken in response to his engagement. The Hearing Panel considered that while his involvement may not have had any effect on the outcome of decisions, this had clearly been his intention.

The councillor failed to accept that he had an inherent influence in his role as an elected member. The Hearing Panel considered it was disingenuous to suggest it was open to officers to simply ignore his enquiries and requirements. The Hearing Panel further considered that the inappropriate level of involvement, enquiries and correspondence from the Respondent could have had an adverse impact on resources, given that officers felt obliged to respond.

The Hearing Panel concluded that the councillor's involvement in direct operational management and questioning of the professional judgement of officers amounted to a contravention of paragraph 3.4 of the Councillors' Code of Conduct. The councillor was suspended from all meetings of the Council for six months.

Before being elected, a councillor had been a spokesperson for a lobbying group who were opposed to a refurbishment of a school on its existing site. The councillor stood down from the position after the election but had continued to receive and send emails to members of the group, which included two of his close relatives. The councillor had, however, failed to declare his involvement as a non-financial interest and had failed to declare the non-financial interests of his sister and father-in-law, as close relatives, at meetings where a planning application in respect of the school was considered.

The Hearing Panel noted that the councillor's pre-election position as spokesperson for the group; his post-election public support for a new build site and his opposition to the refurbishment of the existing school; and the fact that he had continued to exchange emails about the matter meant that his involvement with the group had continued after his election as a councillor. The Hearing Panel concluded that, essentially, the councillor could be perceived as advocating for a cause. He should have declared his involvement and that of his relatives as non-financial interests, refrained from taking part in the planning decision and withdrawn from the room. The Hearing Panel found that the councillor had breached paragraphs 5.7, 5.12, 5.13 and 7.12 of the Councillors' Code of Conduct. The councillor was suspended from a planning committee of the Council for two months.

A councillor became involved in a dispute with his neighbour over the erection of a garden structure, which the councillor felt overshadowed his own garden. The councillor contacted key senior officers involved with Planning, requesting information or actions that would not be available to an ordinary member of the public. On one occasion, the councillor attempted to call-in his neighbour's planning application.

The Hearing Panel found that the councillor had used his position as a councillor to seek information not normally available to members of the public from senior officers of the Council, and attempted to exert influence in asking that the matter be dealt with urgently.

The Hearing Panel noted that although there was no evidence that the councillor attempted to put pressure on officers to reach a particular outcome in respect of the planning application, nor that his actions had any bearing on the decision that was ultimately made, officers may have felt under pressure to comply with such a request.

The Hearing Panel determined that the councillor's actions in requesting information not normally available to members of the public, in asking officers to deal with the matter urgently, and in failing to distinguish between himself as a potential objector and his role as a councillor when attempting to call-in the application, amounted to attempts to seek preferential treatment, and constituted a breach the Councillors' Code of Conduct. The councillor was censured.

ANNEX B: EXAMPLES OF WHEN A COUNCILLOR BECOMES INAPPROPRIATELY INVOLVED IN AN OPERATIONAL MATTER

Specific examples of areas where councillors may inappropriately seek to get involved in operational matters include where a councillor:

- Demands that the contents of a report or its recommendations are changed.
- Insists that Council policy is varied to benefit an individual constituent.
- Demands to sign-off a press release on behalf of the Council, as opposed to accepting he or she is simply being consulted on it
- Tries to direct or alter the evaluation of a tender, grant application, or any other evaluation (for example, the scoring for which school is first on the list for replacement).
- Becomes involved in an individual staffing matter (except when serving on a Committee tasked to deal with such matters, such as a Personnel Appeals Committee).
- Insists on attending an operational meeting with an outside body, or an internal officer working group where elected members are not normally present.
- Seeks access to confidential internal audit reports, including doing so in advance of related disciplinary proceedings.
- Seeks to negotiate directly with trade unions and, in doing so, undermines agreed collective bargaining and the officers involved.
- Seeks to alter and approve an operational plan.