

**REPORT TO:** East Lothian Council

**MEETING DATE:** 25 February 2025

**BY:** Executive Director for Council Resources

**SUBJECT:** Review of Standing Orders

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## **1 PURPOSE**

- 1.1 To seek approval of proposed changes to the Standing Orders, Scheme of Administration and Scheme of Delegation, and to the addition of the Councillor/Officer Protocol as a Standing Orders Supporting Document.

## **2 RECOMMENDATIONS**

- 2.1 That the Council approves the proposed changes to the Council's Standing Orders, Scheme of Administration and Scheme of Delegation (as set out in Appendices 1-3), with effect from 26 February 2025; and
- 2.2 That the Council approves the addition of the Councillor/Officer Protocol (attached as Appendix 4) as a Standing Orders Supporting Document.

## **3 BACKGROUND**

- 3.1 The Council's Standing Orders, including the Scheme of Administration and Scheme of Delegation, are reviewed on an ongoing basis, with regular reports on proposed changes being presented to Council. On this occasion, there are proposed amendments to all three documents, summarised below and set out in Appendices 1–3 (by way of tracked changes). There are also a small number of editorial changes to be made to these documents which are not covered in the appendices – these are mainly concerned with spelling and consistency, but are not material changes.
- 3.2 As regards the Standing Orders, the proposed changes are set out in Appendix 1. The changes relate mainly to the arrangements for the operation of hybrid committee meetings; a change to the voting process; clarification on declaring interests; and changing decisions of the Council.
- 3.3 The proposed changes to the Scheme of Administration are set out in Appendix 2. The key changes include: provision for substitutes at the Audit & Governance Committee, Policy & Performance Review Committee, and Police, Fire & Community Safety Scrutiny Committee;

clarification on substitutes at the Joint Consultative Committee; and additional duties for the Planning Committee.

- 3.4 There are also several proposed changes to the Scheme of Delegation, as outlined in Appendix 3, including additions to the delegated powers of the Chief Planning Officer and Head of Infrastructure, as well as changes relating to planning control and proper officer appointments.
- 3.5 If approved, the changes set out in the appendices to this report will be incorporated into the Council's Standing Orders, Scheme of Administration and Scheme of Delegation, and will come into effect 26 February 2025. The updated documents will be published on the Council's website.
- 3.6 In addition, it is proposed to add the Councillor/Officer Protocol (attached as Appendix 4) as a Standing Orders Supporting Document. This document will replace Supporting Document D – Standards Commission for Scotland Advice Note for Councillors on Distinguishing between Their Strategic Role and Any Operational Work (there is a link from the Protocol to this document). If approved, the updated Protocol will be effective from 26 February 2025.

## **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

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<b>DATE</b>	27 January 2025

## Appendix 1

### East Lothian Council Standing Orders: Proposed Amendments

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#### 4.3 Notice of Meetings to Members of the Council and Committees

- i. At least three clear 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, weekends and public holidays.]
- 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. Councillors will be provided with the meeting agenda and accompanying reports. 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 5.5).

#### 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 and make decisions on any continued matter 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.

#### 5.2 Urgent Business

If three clear 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 to the Convener before 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 emailed directly to the Clerk [\(and copied to the Council Outlook mailbox\)](#) by the Councillor submitting the motion, and 'countersigned' by at least one other Councillor by way of an email to the Clerk [\(and copied to the Council Outlook mailbox\)](#). All such notices should be submitted to the Clerk eleven clear 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).

### **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 [a meeting is taking place using the hybrid facility and the Convener is not present is unable to attend in person but can attend using digital facilities](#), the Depute Convener will chair the meeting, if

[they are attending in person](#). If neither the Convener nor the Depute Convener is present [\(or they can only attend using digital facilities\)](#), the Councillors present will decide who [among those present in person](#), 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 in attendance, either in person or using digital facilities](#). 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). The quorum will include those attending in person and those attending [remotely using digital facilities](#).
- iii. If, 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, after the break, a quorum has not been found, the meeting will be adjourned and the minutes of the meeting will state the reason for the adjournment.
- v. [Should a participant using digital facilities lose connection, the meeting will continue if it remains quorate. If the meeting becomes inquorate, there will be an adjournment of a reasonable time period, to be determined by the Convener, to allow for the participant to reconnect to the meeting. In the event that the participant cannot reconnect and the meeting remains inquorate, the Convener will adjourn the meeting until a date and time determined at the time or afterwards. The minutes of the meeting will state the reason for the adjournment.](#)
- vi. 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. Attendance recorded at hybrid meetings will include those present in the Chamber and those attending [remotely using digital facilities](#).
- 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 within the Scheme of Administration for each committee.
- iii. Meetings may take place by way of the digital meeting facility only (that is, there will be no physical attendance). In such cases, Councillors and relevant officers will be advised of this in advance of the meeting date.

### 6.6 Press and Public Attendance at Meetings

- i. Except where Standing Order 5.5 provides otherwise, every meeting of the Council, its committees and sub-committees will be open to the press and public as observers. Except where Standing Order 5.5 provides otherwise, the press and public will be able to observe every meeting of the Council, its committees and sub-committees. Where a meeting takes place via [hybrid or digital facilities](#)~~only~~, this will be facilitated via a live webcast of proceedings.
- 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. Councillors and officers attending meetings held via digital facilities must not use any part of the recording for political purposes.
- iii. If a member of the public interrupts [or behaves inappropriately at](#) 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).

## **6.6 Meetings Held via the Hybrid Facility**

In the event that a meeting is unable to be held using the live webcast facility, then the meeting can go ahead by way of a local recording. If the local recording facility fails, then the meeting may continue with only those present in the Chamber, as long as it remains quorate.

## **7.2 Behaviour**

All Councillors must comply with the Councillors' Code of Conduct and behave respectfully at any meeting, and they 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, or, if the Councillor is participating remotely using digital facilities, his/her access to the digital meeting facility will be suspended for the remainder of the meeting.

## **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, Standing Orders or the Councillors' Code of Conduct. 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 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 (including the Standing Order number), the law or the Councillors' Code of Conduct has been, or is about to be, breached.

- iii. When a point of order is raised, the meeting will stop until the ~~Clerk or Legal Adviser~~Monitoring Officer, or their representative, has 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~~Monitoring Officer, of their representative, the Convener will decide how the point of order should be dealt with. No Member should speak during this period, unless by invitation by the Convener. 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, 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. Members must also consider whether any connections they have constitute an interest, and should act accordingly. 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.
- i.ii. When declaring an interest, a councillor must state clearly which item of business the interest relates to, what the nature of the interest is, and the action that the councillor will take. All declarations of interest will be recorded in the minutes.
- iii. 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.

#### **9.3 Amendments**

- i. Amendments must relate to the report or motion under discussion. Written amendments must be emailed directly to the Clerk by the Councillor submitting the amendment, and 'countersigned' by at least one other Councillor by way of an email to the Clerk.
- ii. Other than in exceptional circumstances (see (x) below), and in relation to the terms set out in (xi and xii) below, amendments must 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. Competent written amendments submitted prior to the meeting will be published on the website alongside the relevant item of business in advance of 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.
- iv. Every amendment shall be given in writing to the Clerk.
- v. 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 officer/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.
- 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.
- xii. In relation to planning and civic licensing applications, where more than one amendment has been proposed and seconded on the same aspect of an application during the course of the meeting, special arrangements may need to be put in place to deal with the amendments, depending on the specific circumstances. In such cases, the Legal Adviser will set out the process for dealing with such amendments.

## 9.4 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;  
or
  - where an individual councillor is named by another speaker during debate, that councillor will be permitted to speak, even if having already spoken, but only in response to the specific reference made and only to correct any apparent or actual misrepresentation.
- iii. A Councillor moving a motion or an amendment may speak for no more than ten minutes.
- iv. 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.
- v. The Convener may invite officers to clarify matters or provide further information on the matter under consideration, as required, during the debate.

## 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 either by a show of hands, roll call vote or via the electronic voting facility, 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. In the event that a participant using digital facilities is unable to verbally communicate their vote, they may do so by contacting the Clerk by email/digital message.

iv. 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.

iv.ii. Where a motion and amendment are put before the Council or committee, a vote will be taken on both proposals, with each Councillor having one vote. The proposal receiving the support of a majority of Councillors present and entitled to vote will be declared to be the decision of the Council or Committee.

~~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 competing 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.~~

vi. Where a motion and two or more amendments are put before the Council or committee, a vote will be taken on all proposals, with each Councillor having one vote. If a proposal receives the support of a majority of Councillors present and entitled to vote it will be declared to be the decision of the Council or committee. If none of the proposals receives the support of a majority, the one which has received the fewest votes will be dropped and a fresh vote will be taken on the remaining proposals. If there is an equal number of votes between the proposals with the fewest votes, the Convener will have a casting vote to determine which proposal should be dropped. If the Convener chooses not to exercise his/her casting vote, the decision will be taken by drawing lots. This process of elimination will continue until one proposal has received a majority, and that proposal will be declared to be the decision of the Council or committee.

iv-vii. 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.

~~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.

~~iii. For meetings where the Council's digital meeting facility is in use, all votes will be taken by roll call.~~

## 12 RESCINDING-CHANGING DECISIONS OF THE COUNCIL

~~A decision of the Council or committee cannot be changed by the Council or committee within six months unless notice has been given of the proposed item in the notice of the meeting and: (a) the Provost or Convener rules that there has been a material change of circumstances; or (b) the Council or committee agrees that the decision was based on erroneous, incorrect or incomplete information. Any motion to make such a change would require the approval of two-thirds of Councillors present and entitled to vote. 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.~~

## Appendix 2

### East Lothian Council Standing Orders – Scheme of Administration: Proposed Amendments

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#### 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;
- (f) [approve the annual Internal Audit Plan.](#)

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;
- (c) review the audit certificate/wording of any matters reported;
- (d) review the Annual Report to Members from the External Auditor;
- (e) review and monitor the implementation of audit recommendations;
- (f) ensure that issues raised in previous financial years have been addressed; and
- (g) review and monitor treasury management arrangements.

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

Community

- Strategic vision and direction setting by Councillors the Council
- 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 Monitoring and scrutinising the implementation of the Procurement Strategy

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. Councillor membership of the Committee should be drawn only from non-Cabinet Members of the Council. In appointing Councillor 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. In addition to the Councillor membership, and with the approval of Council, the Committee may co-opt up to two independent members to provide appropriate technical expertise.
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. Members of the Audit and Governance Committee shall be entitled to nominate substitute members from within their own political group to attend any meeting of the Audit and Governance Committee \(in accordance with Standing Order 6.4\). Where a substitute from within their own group cannot be found, then other groups will be invited to nominate a substitute.](#)

## **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.

## CHIEF OFFICER AND HEAD TEACHER APPOINTMENTS SUB-COMMITTEE

### A Remit and Powers

[The following business and functions are delegated by the Council to the Chief Officer and Head Teacher Appointments Sub-Committee:](#)

1. The Chief Officer and Head Teacher Appointments Sub-Committee shall have the authority to appoint to the positions of Chief Executive, Executive Director, Head of Service, Jointly Accountable Officer and Head Teacher. [The Convener will not have a casting vote in the appointment of employees.](#)

### B Membership and Attendance

1. An Appointments Sub-Committee will be drawn from a cross-section of Councillors for all permanent Chief Officer appointments 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 Council Support.  
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 permanent appointment of Executive Directors and Heads of Service, the Appointments Sub-Committee will consist of three Councillors, 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, People and Council Support. In the case of a Head of Service appointment, the Panel may also be advised by the Executive Director 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 Executive Directors and Heads of Service.
4. As regards the appointment of a Jointly Accountable Chief Officer, the Appointments Sub-Committee will consist of the Council members and partner members of the Integration Joint Board (IJB) and the Chief Executives of East Lothian Council and NHS Lothian (or their representatives). The Sub-Committee will be advised by the Service Manager – People and Council Support 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 at least one Councillor (preferably the Convener or Depute Convener of the Education and Children's Services Committee, or a ward Councillor, who will chair the panel; however, where possible, two Councillors will be sought, at least one from the Ward in which the vacancy arises), one or two



Parent Council members from the school to which the appointment is being made\* and two officers nominated by the Executive Director for Education and Children's Services. Where the appointment relates to a Roman Catholic school, a representative of the Roman Catholic Church (who sits on the Education and Children's Services Committee) will be appointed to the panel in addition to those groups listed above. Where there is a Roman Catholic Church representative vacancy on the Education and Children's Services 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.

For Depute Head Teacher appointments, one Councillor will be sought to participate in the recruitment process, but the Councillor will not form part of the quorum and the panel may go ahead without their involvement.

\* Where only one Councillor is participating there will only be one Parent Council member participating. 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, one of whom must be a Councillor.

## **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, [due to the confidential nature of the business](#).

## **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 and Children's Services 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.

## PETITIONS AND COMMUNITY EMPOWERMENT REVIEW COMMITTEE

### A Remit and Powers

[The following business and functions are delegated by the Council to the Petitions and Community Empowerment Review Committee:](#)

#### *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 does not have the powers to approve petitions. However, 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.

### 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 and Community Empowerment Review 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, t~~The outcome [of the Committee's consideration of a petition](#) 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 notice of the review. The procedures for appeals are set out in Section 20 of the Asset Transfer Guidance for Community Transfer Bodies.

## 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/High Hedges*
  - ~~(a)~~ ~~(a)~~—determination of confirmation of Tree Preservation Orders where there are outstanding objections.
  - ~~(a)~~(b) determination of High Hedge applications where there are outstanding objections.
5. *Consultation responses on applications made under Section 36 of the Electricity Act 1989*
  - (a) deciding on consultation responses referred to the Planning Committee under Section 19.5 of the Scheme of Delegation.

### B Membership and Attendance

1. 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.

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.
3. 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 to East Lothian Council within the prescribed timescales will be advised that they are welcome to attend the Committee meeting. Other than councillors and Council officers, only applicants/agents, third parties who have submitted individual written representations to East Lothian Council, and the community council within whose ward area the development is proposed will be allowed to make representation at Planning Committee. ~~but~~ The following restrictions on addressing the Committee will also 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 within the prescribed timescales 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, whether or not they have submitted a written representation on the planning application under consideration.
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.
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**

The following business and functions are delegated by the Council to the Police, Fire and Community Safety Scrutiny Committee:

1. 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
2. To receive and comment on local quarterly performance reports from Police Scotland and the Scottish Fire & Rescue Service
3. 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
4. To consider and respond to national and local level strategies and policies of Police Scotland and the Scottish Fire & Rescue Service
5. To scrutinise and monitor the Service Level Agreement between the Council and Police Scotland
6. 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. Members of the Police, Fire and Community Safety Scrutiny Committee shall be entitled to nominate substitute members from within their own political group to attend any meeting of the Police, Fire and Community Safety Scrutiny Committee \(in accordance with Standing Order 6.4\). Where a substitute from within their own group cannot be found, then other groups will be invited to nominate a substitute.](#)

## **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. 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 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. Members of the Policy and Performance Review Committee shall be entitled to nominate substitute members from within their own political group to attend any meeting of the Policy and Performance Review Committee \(in accordance with Standing Order 6.4\). Where a substitute from within their own group cannot be found, then other groups will be invited to nominate a substitute.](#)

## **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.

## **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; GMB – 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. Only those Trades Union representatives, or their substitutes, will have the right to attend and participate in meetings.

65. Any vacancy on the JCC shall be filled by the appointing organisation.

76. The employee representatives shall appoint an Employee Side Secretary to the JCC from amongst their members.

87. 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, 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.

## Appendix 3

### East Lothian Council Standing Orders – Scheme of Delegation: Proposed Amendments

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#### 7. Specific Duties and Responsibilities Delegated to the Chief Planning Officer

##### A. General

7.1 The Chief Planning Officer is designated by the Council as the proper officer responsible for carrying out certain duties and functions in accordance with the Town and Country Planning (Scotland) Act 1997 (as amended), and other related planning legislation.

##### B. Specific Delegated Functions

7.2 Taking decisions on planning applications and enforcing planning laws, subject to the protocol set out in Section 19 of this Scheme of Delegation

7.3 Monitoring planning permission and other permissions, and taking enforcement action under Part V1 and V11 of the 1997 Act, including serving notices, taking direct action and prosecuting people for not keeping to such notices

7.4 Determining requests to undertake work to trees that are either protected by a Tree Preservation Order or are within a Conservation Area; and determining applications for Tree Preservation Orders where there are no outstanding objections

[7.5 Determining applications for High Hedges where there are no outstanding objections](#)

[7.65](#) Providing the Council's view as planning authority on planning applications and other consultations from neighbouring planning authorities and the Scottish Government. The only exception to this is consultation responses on applications made under Section 36 of the Electricity Act 1989 (see Section 19.5)

##### C. Proper Officer Delegation

[7.76](#) The Service Manager for Planning will act as the Chief Planning Officer. In their absence, suitably qualified and experienced officers within the Planning Service are authorised to carry out the duties of the Chief Planning Officer.



## **11. Specific Duties and Responsibilities Delegated to the Head of Communities**

### **A. General**

11.1 The Head of Communities is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services:

- Connected Communities
- Customer Services
- ~~Policy, Improvement and Partnerships~~
- Protective Services

### **B. Specific Delegated Functions**

11.2 Approving grants to individuals and organisations within the community, up to a maximum decided by the Council

11.3 Making suitable arrangements for the Council's insurance matters, and settling individual insurance claims up to a maximum of £100,000

## **12. Specific Duties and Responsibilities Delegated to the Head of Corporate Support**

### **A. General**

12.1 The Head of Corporate Support is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services:

- [Communications](#)
- [Council Support](#)
- Customer Feedback
- Democratic Services
- Executive Support, including to Lord Lieutenant
- Human Resources and Payroll
- Information Governance
- IT Services
- Legal Services
- Licensing
- Registration Services
- [Unified Business Support](#)

### **B. Specific Delegated Functions**

12.2 Appointing and re-appointing curators ad litem and reporting officers

12.3 Appointing members to the East Lothian Local Licensing Forum

12.4 Determining the following licensing matters (in accordance with relevant legislation, as set out in the scheme of delegation adopted by the Licensing Sub-Committee):

- a. to grant a licence, on advice from the Chief Constable that there are no objections
- b. to renew a licence, if there are no new objections or adverse information received since or before the Licensing Sub-Committee's last consideration of the matter and the licence sought is the same as the licence previously granted
- c. to grant a licence in terms of any other primary or secondary legislation which regulate licensing regimes falling within the ambit of the Licensing Sub-Committee, if there are no new objections or adverse information received since or before the Licensing Sub-Committee's last consideration of the matter and the licence sought is the same as the licence previously granted

- d. to determine whether exceptional circumstances exist which would justify the return of application fees in cases where the application is not progressed
- e. to suspend a licence with immediate effect in terms of paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982
- f. to determine whether 'good cause' has been shown by an applicant where the application for renewal of a licence is received late, in terms of paragraph 8(5A) of Schedule 1 of the Civic Government (Scotland) Act 1982
- g. to provide that if, for any reason, the delegated officer considers it inappropriate to determine an application under delegated powers, the application will be referred to the Licensing Sub-Committee for determination

## **17. Specific Duties and Responsibilities Delegated to the Head of Infrastructure**

### **A. General**

17.1 The Head of Infrastructure is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services:

- Engineering Services and Building Standards
- Estates
- Facilities Management
- Roads Services
- Sport, Countryside and Leisure
- Strategic Asset and Capital Plan Management
- Transport Services
- Waste Services

### **B. Specific Delegated Functions**

17.2 In consultation with, and with the agreement and approval of the Section 95 Officer, the Service Manager – [Legal Governance](#), and other officers as required, undertake:

- a. Disposals of land and/or buildings (if the highest offer is not to be accepted or the property is to be sold without having to be advertised, the matter is referred to Cabinet)
- b. Acquisitions of land and/or buildings as agreed within the capital programme
- c. Agreeing terms for the disposal of small areas of open space ground on the Housing Revenue Account or managed by Sport, Countryside and Leisure, where such areas are not advertised for sale
- d. Agreeing terms for leases/tenancies of land or buildings, and all matters arising from the lease of a property, including lease transfer and variation, sub-letting, change of use, alterations, and recovering overdue rent and other charges
- e. Agreeing terms for granting wayleaves, rights of way and servitudes
- f. Agreeing terms for an excambion of land required for any of the Council's functions where this action is within the approved capital programme
- g. Settling claims for professional fees and costs in connection with buying and selling land, and compensation claims of up to £25,000
- h. [Initiating, confirming and making Experimental Traffic Regulation Orders \(if such Orders are subsequently proposed to be made permanent, the matter is referred to Cabinet\)](#)

17.3 Letting Common Good properties, following consultation (as required in terms of the Community Empowerment (Scotland) Act 2015) and consideration of representations made during such consultation.

## **19. Scheme of Delegation for Planning Applications**

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

- a. Delegated Decisions – ‘Local Developments’ as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2008 shall be determined by the Chief Planning Officer without reference to Members, subject to 19.1(b) below. Such determination shall include, where appropriate, authority for the Council to enter into any legal agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 or otherwise and authority for the Council to take enforcement action in instances where retrospective planning permission is refused for unauthorised development.
- b. Scheme of Delegation List – A list of reports on applications to be decided under delegated authority in terms of 19.1(a) above which raise important planning issues and/or are subject to any amount of public objection shall be circulated each week to Members, who then shall have seven days in which to request referral to the Planning Committee, otherwise the officer decision shall be issued by the Chief Planning Officer in terms of 19.1(a) above. The Member who has requested referral to the Planning Committee shall prepare the Statement of Reasons for issue by the Planning Authority giving the reasons why the Planning Committee and not the Chief Planning Officer should determine the application.

### **19.2 Appeal to Scottish Ministers against the failure to take a decision on a planning application**

In cases where an applicant has appealed to Scottish Ministers against the failure to take a decision on a planning application, the Chief Planning Officer shall have authority for submitting the Council’s submission on the appeal, as a Council Officer statement.

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

- a. Authority for service of Planning Contravention Notices ~~and~~ Breach of Condition Notices [and Temporary Stop Notices](#) will be delegated to the Chief Planning Officer and will be reported for Members’ information to the Members’ Library.
- b. Committee Expedited List – reports recommending service of Enforcement Notices, Stop Notices and Notices under Section 179 (‘Land Adversely Affecting Amenity of Neighbourhood’) of the Town and Country Planning (Scotland) Act 1997 shall be circulated each week to Members, who then shall have seven days in which to request referral to the Planning Committee, otherwise the officer recommendation is deemed to be accepted and the Chief Planning Officer shall be authorised to proceed on that basis.

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

- a. The Chief Planning Officer shall have authority to determine applications to vary, modify or discharge planning obligations, in terms of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010
- b. The Chief Planning Officer shall have authority to determine applications to vary modify or discharge Good Neighbour Agreements, in terms of the Town and Country Planning (Modification and Discharge of Good Neighbour Agreements) (Scotland) Regulations 2010.
- c. The Chief Planning Officer shall have authority to modify or discharge planning obligations through written agreement with all parties providing that there is no reduction in the scale or level of obligation or financial contribution to the Council or any non-applicant.

**19.5 Consultation requests under Section 36 of the Electricity Act 1989**

Consultation responses on applications made under Section 36 of the Electricity Act 1989 shall be circulated on the Committee Expedited List to Members, who shall have seven days to request referral to the Planning Committee, otherwise the officer consultation response is deemed to be accepted and the Chief Planning Officer shall be authorised to proceed on that basis.

## 20. Statutory Appointment of Officers

20.2 The proper officers appointed for the roles set out in Section 20.1 cannot delegate their duties to other officers. However, if they cannot carry out their delegated duties because they are not available, the following officers will carry out their duties:

<b>Proper officer appointed for the roles set out in Section 20.1</b>	<b>Officer(s) who will carry out duties if the proper officer is not available</b>
If the Chief Executive is not available to act as Head of Paid Service	Executive Directors, as agreed
If the Returning Officer is not available for election purposes	Depute Returning Officer
If the Executive Director for Council Resources is not available to act as Section 95 Officer	<u>Head of Finance, in the first instance, or</u> a suitably qualified and experienced person from within the Finance Service
If the Head of Children's Services is not available to act as Chief Social Work Officer	A suitably qualified and experienced person from within the following services: Children's Services Adult Statutory Services Adult Community Services
If the Service Manager – Planning is not available to act as Chief Planning Officer	A suitably qualified and experienced person from within the Planning Service
If the Head of Corporate Support is not available to act as Monitoring Officer	Service Manager – Governance Team Manager(s) – Democratic and Licensing (in relation to matters concerning the Councillors' Code of Conduct)
If an Executive Director is not available	Relevant Head of Service
If the Service Manager – Governance is not available to act as Clerk to the Licensing Board	A suitably qualified and experienced person from within the Legal Service
If the Executive Director for Council Resources is not available to act as the Senior Information Risk Officer	Head of Corporate Support
If the Team Manager – Information Governance is not available to act as Data Protection Officer	Head of Corporate Support / Service Manager – Governance / Team Leader – Information Governance



**Appendix 4**



# **Councillor/Officer Protocol**

## **Contents**

1. Introduction and application of the Protocol
2. General principles
3. Role of councillors
4. Role of Council officers
5. Relationship between officers and councillors
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## **1 INTRODUCTION AND APPLICATION OF THE PROTOCOL**

- 1.1 This Protocol will come into effect on XXXX. The guidance applies to both councillors and Council officers, including statutory officers. It should be read in conjunction with the Councillors' Code of Conduct and its associated guidance/advice notes, available at: [Councillors' Code of Conduct | The Standards Commission for Scotland \(standardscommissionscotland.org.uk\)](https://standardscommissionscotland.org.uk).
- 1.2 Councillors and Council officers should familiarise themselves with the general principles of the Protocol, set out in Section 2.
- 1.3 For further advice on the Protocol, please contact:

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[hbarnett@eastlothian.gov.uk](mailto:hbarnett@eastlothian.gov.uk) / 01620 827274

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Linda Gillie, Team Manager – Democratic & Licensing (job-share)  
[lgillie2@eastlothian.gov.uk](mailto:lgillie2@eastlothian.gov.uk) / 01620 827225

## **2 GENERAL PRINCIPLES**

- 2.1 Councillors and Council officers should treat each other with courtesy and respect, and each should recognise and act in accordance with their different roles and responsibilities.
- 2.2 Councillors are entitled to a reasonable level of assistance, in accordance with the Council's policies and procedures, and officers have a duty to ensure that they provide assistance to them.
- 2.3 Councillors and Council officers should comply with relevant legislation, guidance, codes of conduct, policies and procedures at all times when carrying out their respective roles.
- 2.4 Communications between councillors and Council officers should be considered confidential (see Section 6.4), unless determined otherwise by legislation or Council policy/guidelines.

### **3 ROLE OF COUNCILLORS**

- 3.1 Councillors have a strategic leadership and oversight role within the Council, which includes determining Council policy/strategy, taking decisions on major and complex matters presented to them at Council/committee, and scrutinising the implementation of policy and the performance of the Council.
- 3.2 In accordance with the Councillors' Code of Conduct, councillors have a duty to act in the interests of the Council as a whole and the communities it serves. They also have a duty to be accessible to the people of the area for which they have been elected to serve, and to represent their interests.
- 3.3 Councillors have a responsibility to the electorate and should therefore represent the views of local residents fairly and without prejudice. It is their duty to assist constituents in their dealings with the Council.
- 3.4 Councillors must consider issues on their merits, taking account of the views of others and ensuring that the Council uses its resources prudently and in accordance with the law.
- 3.5 Councillors also represent the Council in partnership arrangements and on outside bodies.
- 3.6 Councillors must not involve themselves in operational matters or management of staff (for further information, see the Standards Commission for Scotland *Advice Note for Councillors on Distinguishing between Their Strategic Role and Any Operational Work*: [Advice Notes | The Standards Commission for Scotland \(standardscommissionscotland.org.uk\)](https://standardscommissionscotland.org.uk)).

### **4 ROLE OF OFFICERS**

- 4.1 Council officers are responsible to the Council as their employer, and they are responsible for implementing Council policies and delivering Council services in accordance with those policies.
- 4.2 Council officers should seek to assist councillors in their enquiries, and should treat all councillors fairly and equitably.
- 4.3 In carrying out their duties, Council officers must ensure they comply with relevant legislation, guidance and Council policy, and they should do so in an open and transparent manner.
- 4.4 Council officers must ensure that councillors are provided with all the relevant information in order that they can carry out their duties effectively and make informed decisions.

- 4.5 A Scheme of Delegation is in place (Appendix 2 of Standing Orders: [Standing Orders of East Lothian Council | East Lothian Council](#)) which allows certain Council officers to take decisions on a variety of matters. When taking delegated decisions, officers must comply with the Scheme of Delegation, as well as ensuring that good governance has been followed and any risks have been taken into account.

## **5 RELATIONSHIP BETWEEN COUNCIL OFFICERS AND COUNCILLORS**

### **5.1 Roles and Responsibilities**

In order to achieve a positive and effective working relationship, it is important that councillors and Council officers understand and respect each other's roles and responsibilities.

The relationship between councillors and Council officers should always be positive, respectful and courteous. However, it should not become so close as to call into question officers' ability to act in an impartial manner with councillors.

Councillors should not ask officers to do anything which compromises or is likely to compromise them and prevent them from undertaking their duties properly. Any officer who has concerns about a request from a councillor should seek guidance from their line manager.

Councillors must not involve themselves in operational matters. Should a councillor have any concerns regarding the operational business of the Council, they should raise the matter with the relevant Executive Director or Head of Service. If concerns remain, they should escalate to the Chief Executive.

Councillors should not raise any adverse matters related to the performance, conduct or capability of Council employees or groups of employees in public.

Should a councillor have any concerns about the conduct or behaviour of a Council officer when carrying out their duties, they should raise the matter with the relevant Executive Director or Head of Service.

### **5.2 Political neutrality**

Council officers must act with political neutrality at all times, and must treat all councillors equally, fairly and consistently, regardless of their political affiliation. It is recognised that senior officers may form closer working relationships with councillors within the Administration, due to the nature of those roles; however, this should not affect officers' ability to deal impartially with councillors who are not members of the Administration.

Council officers must not advise councillors on matters of party political business.

Should a councillor have any concerns about the political neutrality of a Council officer when carrying out their duties, they should raise the matter with the Chief Executive or relevant Executive Director.

### **5.3 Members' Services**

Councillors will be provided with administrative support, accommodation, equipment and other resources in order to carry out their duties as a councillor. It is important to note that while the tasks of Members' Services administrative staff are largely directed by the councillors for whom they provide support, they are managed by Council officers and are subject to the same rules and duties as other Council staff.

Under no circumstances, should Members' Services staff be asked to participate in party political activity in the course of their Council duties, nor should they be asked to represent or substitute for councillors at events or decision-making bodies, although they may attend as non-speaking observers, with the permission of their line manager.

In the event that an officer providing support to councillors has concerns in relation to conflicting priorities, or the behaviour/conduct of a councillor, then those concerns must be referred to their line manager.

### **5.4 Use of Council facilities and resources**

Council facilities and resources must only be used for Council business and not for any party political activities or private purposes.

Further information on the use of Council facilities during pre-election periods can be found in the Council's Pre-election Period Guidance, which is published on Elnet in advance of each election.

## **6 COMMUNICATIONS**

### **6.1 Channels of communication**

Councillors should direct any requests for advice or information regarding Council services to the relevant service manager in the first instance. It will be for service managers to determine who is best placed to respond to such requests.

Should two or more councillors make the same enquiry, the officer dealing with the matter should ensure that a consistent response is provided to all those making the enquiry. However, where a specific question has been

raised by a councillor, officers are not obliged to share the response more widely.

When dealing with a ward-related matter, officers should ensure that all councillors for that ward are given the same information at the same time. However, it should be noted that councillors with additional responsibilities may be entitled to receive that information earlier if it concerns an issue within their area of responsibility.

## 6.2 **Meetings between councillors and Council officers**

Councillors may expect the attendance of Council officers at meetings as part of the assistance provided to councillors. However, they should not make unreasonable requests for meetings, and should bear in mind that officers may have other priorities and may not be able to attend meetings requested at short notice.

If a councillor requests the attendance of a Council officer at a meeting, they must provide sufficient information to allow the officer to decide if their attendance would be appropriate. For example, they should advise of the matter(s) to be considered; in what capacity the officer has been invited; who else will be in attendance (including other councillors or third parties) and the reason for their attendance; and whether a record of the meeting is required and, if so, what the recording arrangements are.

Council officers may meet councillors in relation to any aspect of Council business, and it will be for them to determine who should be invited. However, where the meeting concerns a wider ward issue, officers must invite all ward councillors to the meeting, and should not give one or more councillor preferential treatment over others.

## 6.3 **Access to information / requests for information**

Councillors have a right to access Council documents and information where this information is required in order to perform their Council duties. This right of access is based on the principle commonly referred to as the 'need to know' principle. Further information on this can be found [Councillors' Right of Access to Information Held by the Council](#).

Some councillors have additional responsibilities (such as the Provost, Council Leader, committee conveners), and those individuals will therefore have some additional rights and privileges.

In requesting information from Council officers, councillors should have regard to the potential burden on the officer(s) in respect of their request, e.g. time pressures, resources required, and the nature/complexity of the information requested. Councillors should therefore consider what is reasonable in terms

of their request (see link to guidance note above) and be aware that officers may not be in a position to agree to all requests that councillors make.

In accordance with the Freedom of Information (Scotland) Act 2002, councillors also have the same rights as members of the public to request information held by the Council. When a councillor submits a Freedom of Information request, they will be treated in the same way as a member of the public.

#### **6.4 Confidentiality**

Councillors and Council officers will have access to information which is confidential and not available to the public. It is therefore important that confidential information is not disclosed or used for personal or political advantage. In accordance with Code of Conduct guidance, councillors are advised to treat information as confidential even if it is not stipulated as such.

Enquiries from councillors should be considered as confidential and not shared with other councillors unless consent is given (or unless there is a serious risk to the health or safety of councillors, officers or members of the public).

Certain Council and committee reports as classed as 'exempt' because they contain exempt information, for example commercially sensitive information or information relating to an employee. Such reports will be marked 'not for publication' and must not be disclosed by councillors or Council officers to third parties.

Any alleged breach of confidentiality on the part of a councillor or Council officer should be reported to the Chief Executive or relevant Executive Director in the first instance. Where it is alleged that a councillor has breached confidentiality, this may lead to the matter being referred to the Commissioner for Ethical Standards.

#### **6.5 Data Protection**

Councillors are data controllers as regards any personal data they obtain in respect of their Council duties, and are thus bound by data protection rules and guidance. Such information is not considered to be Council information; however, if it is shared with Council officers, then it becomes data that is held by the Council and is subject to the usual data protection rules.

#### **6.6 Media relations and publicity**

The Council must comply with relevant legislation as regards any publicity it produces. The Code of Recommended Practice on Local Authority Publicity is attached as Supporting Document G to the Council's Standing Orders. Specific guidance on publicity during pre-election periods is published on Elnet in advance of each election.