



ARGYLL AND BUTE COUNCIL

CONSTITUTION

PART C

SCHEME OF ADMINISTRATION AND DELEGATIONS

INTRODUCTION

The Council accepts the principle that in the discharge of its statutory functions, decisions should be made at the lowest and the most local level consistent with the

SECTION ONE

1.1 POLITICAL MANAGEMENT ARRANGEMENTS

1.1.1 The Council's political management arrangements will comprise the following bodies (hereafter referred to as "bodies of Members")

- (1) Policy and Resources Committee
- (2) Community Services Committee
- (3) Environment, Development and Infrastructure Committee
- (4) The following Area Committees:-
 - (a) Mid Argyll, Kintyre and the Islands
 - (b) Oban, Lorn and the Isles
 - (c) Bute and Cowal
 - (d) Helensburgh and Lomond
- (5) Planning, Protective Services and Licensing Committee
- (6) Performance Review and Scrutiny Committee
- (7) Audit Committee
- (8) Appeals Committee

1.1.2 The Council may appoint such other bodies of Members as they may from time to time consider are required to discharge any of its functions and in so doing will specify the terms of reference and delegation to any such body.

1.2 SHORT LIFE WORKING GROUPS

1.2.1 A Short Life Working Group may be appointed from time to time by the Council for the purpose of advising on any matter and in appointing such a Group the appointing body will specify the matters on, and the timescale within which the Group is to provide advice.

1.3 CONSTITUTION

1.3.1 For the purpose of having regard to geography the Council recognises the division of the Council's area into the following four sub-areas:-

- (a) Mid Argyll, Kintyre and the Islands: comprising Electoral Ward 1 (South Kintyre); EW2 (Kintyre and the Islands); EW3 (Mid Argyll).
- (b) Oban, Lorn and the Isles: comprising EW 4 (Oban South and the Isles); EW5 (Oban North and Lorn).

- 1.3.2 The Constitution of the various bodies referred to in paragraph 1.1.1 will be as follows:-

Strategic Committees

- (1) Policy and Resources Committee

**** members, the Leader and Depute Leader to be Chair and Vice Chair of the Committee. The composition of which will have regard to geographic and political balance in so far as practicable.

- (2) Community Services Committee and Environment, Development and Infrastructure Committee shall have ***** members. The relevant Policy Lead shall Chair the items relevant to their brief and in the event that an item has relevance to more than one Policy Lead then, failing agreement between or among them then the Committee shall determine who shall Chair the item.

- (3) When the Community Services Committee is considering matters relating to the Education function of the Council also:-

three persons interested in the promotion of religious education who shall be voting members
two non voting teachers elected by teaching staff employed in local authority schools in the Council's area

- (4) Mid Argyll, Kintyre and the Islands Area Committee

Nine members being the members representing the electoral wards within the area defined at paragraph 1.3.1(a).

- (5) Oban, Lorn and the Isles Area Committee

Eight members being the members representing the electoral wards within the area defined at paragraph

- 1.4.2 (1) For the purposes of this Scheme, an executive position is any one of the following:-
- (a) Leader of the Council
 - (b) Depute Leader of the Council
 - (c) Depute Provost
 - (d) Policy Lead
 - (e) Chair of the Planning, Protective Services and Licensing Committee
 - (f) Chair of an Area Committee
- (2) Except where otherwise provided by any enactment or statutory order, or otherwise by this Scheme, the Members to be appointed to any one or more executive position will be so appointed at the first meeting of Council following each ordinary election of Councillors.

- (4) When appointing a body of Members and so far as not provided for otherwise in this Scheme the Council will appoint two of the members to be respectively the Chair and Vice Chair of the body and they will hold office so long as they remain Members of the Council.

Casual Vacancies

- 1.4.4 (1) Casual vacancies occurring in any Executive position, in the chairmanship or vice chairmanship or in the membership of a body will be filled as soon as may be by the Council after the vacancy takes place.
- (2) Provided a quorum remains a body of Members established in terms of this scheme may act, and its proceedings will not be invalidated by any defect in the appointment of any person to it.

1.5 ADMINISTRATION OF DELEGATED AND REFERRED FUNCTIONS

- 1.5.1 In the administration of any delegated or referred function, a body of Members appointed in terms of this scheme will give effect to any instruction of the Council and to the following:-
 - (1) The approved estimated expenditure in respect of the Service to which that function relates will not be exceeded unless otherwise authorised by the Council or in accordance with the this Scheme or the Financial Regulations; and
 - (2) The directions, policies, and procedures set out in any part of this Constitution, or otherwise laid down by the Council will be complied with.
 - (3) Decisions or actions taken in the proper exercise of powers delegated in terms of this Scheme will be binding on the Council.
 - (4) Each body established in terms of this Scheme will submit a report to the Council (or the body which appointed it) on any matter which it either does not have, or does not wish to exercise, a delegated power to deal with the business which is the subject of the report.
 - (5) A body established in terms of this scheme will furnish any information which the Council may from time to time require.

(6) Every meeting of the Council, and any body established in terms of this scheme, and such other bodies as the Council may direct from time to time, will be regulated by the Council's Standing Orders and the provisions of Section 50 of the Local Government (Scotland) Act 1973 and will, except where otherwise provided by those Standing Orders, that Section, or Council direction, be open to the public.

(7)

SECTION TWO

2.1 TERMS OF REFERENCE AND DELEGATION

2.1.1 The following terms of reference and delegations are to be read in conjunction with provisions contained in the Standing Orders for Meetings; the Contract Standing Orders, and the Financial and Security Regulations and are subject to those provisions.

General Delegations

- 2.1.2 (1) A body established in terms of this scheme will be free to incur expenditure on any function delegated to it up to the limit for which provision has been made in the Council's approved Estimates of Revenue or Capital Expenditure.
- (2) Subject to the provisions of the Local Government (Scotland) Acts 1973 and 1994 and of any Regulations made there under, and to the specific delegations, exceptions and limitations provided for in this Scheme and in the Standing Orders for meetings, the Financial and Security Regulations and the Contract Standing Orders, there is delegated to the Council in relation to all the functions of the Council, all the matters, services or undertakings, including the acquisition, construction, holding, maintenance and disposal of any land or buildings or works.
- (3) A body established in terms of this scheme may exercise and perform on behalf of and in the name of the Council all powers and duties of the Council in relation to any function, matter, service or undertaking delegation by the Council to it.
- (4) A matter on which the body discharges any power or duty is one which has application only within the delegation to that body; a matter having application only within the delegation to that body.

(2) The approval of any plan which is part of the Policy

- (b) The approval of or allocation of any expenditure on any matter will be so approved or allocated only within any framework or criteria approved by the Council or as otherwise directed by the Council.
- (c) The approval of any service delivery arrangements will be so approved only within any framework or criteria approved by the Council, or as otherwise directed by th

To develop co-operation between the Council and the voluntary sector and to assist and promote the work undertaken by the voluntary sector.

2.2.3 Financial Assistance

To consider requests from external bodies and implement the Code of Guidance on External Bodies and Following the Public Pound.

- (3) To oversee the management of the Council's Property, Fleet and Information Systems and Technology Assets.
- (4) To consider the acquisition and disposal of the Council's assets, in so far as not delegated to area committees.

2.2.8 Human Resources

- (1) To oversee the management of the Council's human resources.

2.2.9 Civic Services

To deal with all policy matters relating to civic heritage and ceremony (including town twinning) .

2.3.0 Community Planning

To determine and implement the Council's policies in relation to its statutory role in relation to Community Planning.

2.3.1 Continuous Improvement

- (1) To determine and implement the Council's policies in relation to the achievement of Best Value.
- (2) To consider the Best Value Review and Inspection Programme.
- (3) To consider Best Value Reviews from Services as appropriate.
- (4) Without prejudice to the duties and responsibilities and delegated authority of other Committees, to review the performance and effectiveness of all the Council's work and the standards and level of service provided, to review the need to retain existing services, and to co-ordinate where necessary all the matters referred to in this sub-paragraph in respect of the Committees and Services of the Council

Environment, Development and Infrastructure Committee

All of the functional areas within the development and infrastructure department not otherwise reserved to the Council , the Policy and Resources Committee or the Planning Protective Services and Licensing Committee including, without prejudice to the foregoing generality, the following:-

Economic Development

The relevant functional areas relating to strategic regeneration, development and transport planning, economy and business, energy, telecommunications, agriculture, fisheries, arts, culture and tourism.

Environment and Transport

The relevant function areas relating to the natural environment, roads transport, harbour and ferry services, building services and environmental services.

2.4 Area Committees

- 2.4.1 (1) Subject to the exclusions and limitations set out in paragraphs 2.1.3, 2.1.4 and 2.1.5 of this Scheme, an Area Committee is authorised to discharge the powers and duties of the Council

- (5) Subject to the terms of reference or delegation to any other body of Members or an officer in terms of this scheme, to determine issues of a local and non strategic nature relating to all of the Council's services and functions within any framework and criteria approved by the Council from time to time.
- (6) To support, and encourage effective collaboration and co-ordination between and within community based organisations operating in the local area.

2.5 Planning, Protective Services and Licensing Committee

- (d) To determine applications not falling under the ambit of Section 43a of the Planning Etc (Scotland) Act 2006 eg [Listed Building Consent, Conservation Area Consent, Hazardous Substance and Advertisement Consents] where there have been a significant body of objections ie more than 10 individual objections on planning policy or land use grounds.
- (e) To determine the imposition of a Fixed Penalty Notice under the Planning Etc (Scotland) Act 2006 Section 25 and temporary stop notices under Section 26
- (f) To determine whether to take enforcement action on any matters on which the Executive Director - Development & Infrastructure Services has decided not to exercise his delegated authority.
- (g) To undertake, either as a committee or sub committee, the preparation for and determination of any application which is subject to a local review entitlement ie a local application where the decision has been made by an officer.

2.5.4 Functions referred to in 2.5.2 above are functions under various public protection legislation including:-

- the Civic Government (Scotland) Act 1982, the Gaming Acts, the Cinematography Acts and other related or amended legislation
- the control, investigation and mitigation of epidemic, endemic and infectious diseases and related nuisances.
- food safety
- health and safety and other legislation affecting public safety
- water quality, environmental protection and pollution control
- caravan sites and houses in multiple occupation
- animal health, welfare and control, including pest and dog control
- consumer protection, fair trading and trading standards
- poisons, explosives, and petroleum

2.5.5 The regulatory functions of the Council under the Road Traffic Regulation Act 1984 and the Roads (Scotland) Act 1984

2.5.6 The functions of the Council under the Criminal Justice and Public Order Act 1994

2.5.7 Any other power or duty of the Council under any enactment in relation to the regulation of any activity, or the protection of the public or sections of the public.

2.6 Short Life Working Groups

- 2.6.1.6 At the end of the period mentioned in sub-paragraph (4) of this Standing Order the Group will cease to exist unless before the end of that period the appointing body has substituted a revised period.
- 2.6.1.7 It will be open to the Council at any time in the event that it considers the resources available to support the work of SLWGs are insufficient, to agree that no further Groups should be established or that the number in total should be limited. If such a decision is made no proposal to establish a SLWG Group which would be contrary to the Council resolution shall be considered unless and until the Council has altered or rescinded that resolution.
- 2.6.2 The arrangements for meetings of a SLWGs will be a matter for the

2.7 Performance Review and Scrutiny Committee

The Performance Review and Scrutiny Committee will have delegated powers in terms of the Scheme of Administration and Delegations which is referred to in Standing Order 26, in terms of the terms of reference outlined below and shall be a committee of the Council to which the standing orders of the Council shall apply.

The Performance Review and Scrutiny Committee will be responsible for the following:

Performance Review

(1) Reviewing performance when viewed against policy objectives arising from:

To consider the annual report, opinion, and summary of Internal Audit activity (actual and proposed) including the level of assurance it can give over the Council's corporate governance arrangements and other specific internal audit reports;

To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance and other specific

To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;

To oversee the production of the Council's Governance and Internal Control Statement; and

To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

2.8.4 Delivery Achieving Monitoring

To assess the effectiveness and development of the Council's Performance Management System;

To regularly review outputs from the Council's performance management system;

To consider performance and inspection reports from internal audit, external audit and other relevant scrutiny bodies;

To commission specific performance reviews to be carried out where necessary;

To review Best Value arrangements and outcomes, with consideration of both external and internal Best Value reports, strategy/plans and outcomes from Best Value reviews;

To overview key performance indicator outcomes, including quarterly service performance reporting and Statutory Performance Indicator (SPI) outcomes; and

To review the impact of national performance reports from external frcote
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2.9.4 Social Work Complaints Review

The hearing and determination of complaints in terms of the complaints procedure in terms of Section 5B the Social Work {Scotland} Act 1968 as amended by National Health Service and Community Care Act 1990.

2.9.5 Access to Personal Files Review

Appeals under the Access to Personal Files Act 1987 and Access to Personal Files (Social Work) (Scotland) Regulations 1989

SECTION THREE

DELEGATIONS TO OFFICERS

The functions, powers and duties delegated to the Chief Executive and each Executive Director are also exercisable by such Officers as are designated by them, subject to the provision of any law, and provided the designated Officers are suitably qualified.

3.1 Limitation of Delegations to Officers

3.1.1 Delegations to Officers set out in this Section are subject always to the following:-

- (1) Officers will exercise the authority delegated to them having regard to and in accordance with the policies adopted by the Council from time to time; and will act in the interests of the Council;
- (2) Officers will comply with any appropriate departmental practice or procedure, of any managerial instruction given, and of any other

similar consideration.

- (3) Officers will exercise the authority delegated to them in accordance with any relevant provisions contained elsewhere in

3.2 General Delegations to Officers

The Chief Executive and Executive Directors of Service are authorised to –

- 3.2.1 Appoint employees as required by them to discharge the functions of the services for which they are responsible, within the overall budget approved by the Council for their Service. To dismiss employees, including in the delegation to the Chief Executive, Executive Directors of Service.
- 3.2.2 Apply and implement the terms of National and Local Agreements on Salaries and Conditions of Service to any post or posts and take such other decisions in relation to such posts and the employees who occupy them as they consider necessary in the interests of the effective operation of the Council's Services.
- 3.2.3 Conduct Disciplinary and Grievance proceedings and make appropriate determinations in accordance with the Council's approved Disciplinary and Grievance Procedures.
- 3.2.4 Select tenderers and award contracts in compliance with the Contract Standing Orders.
- 3.2.5 To take such measures as may be required to enable the Council to respond to an emergency situation, subject to advising as appropriate (a) the Leader, (b) the relevant Lead Councillor, and where the emergency is likely to affect significantly a particular part of the Council's area (c) the Chair of the relevant Area Committee and (d) Ward Councillors, reporting to the Council as soon as possible thereafter, on any items of expenditure for which approval would normally be necessary.
- 3.2.6 To authorise suitably qualified officers to discharge functions set out in this Constitution on their behalf, and to sign and to issue –
 - (a) statutory notices on behalf of the Council under all relevant legislation applicable to the functions of their office
 - (b) authorisations to Officers to exercise statutory powers (including, where appropriate, the right to enter land and premises in connection with discharge of their duties), and
 - (c) identity cards, and such other similar authorisations as may be required, to Officers.
- 3.2.7 To pay valid claims for damage to, or loss of, property of employees occurring during the course of their employment or of members of the public, arising from the work of the Service concerned, up to £10,000 in respect of any one claim, subject to the approval of the Chief Executive in respect of any higher amount, and subject also to the requirement to ensure that appropriate notification is given and/or claims made on the relevant Council Insurance Policies.

- 3.2.8 To act as Proper Officer in terms of Sections 50(D) (1) (a) and 50(D) (5) of the Local Government (Scotland) Act 1973 (Background Papers).
- 3.2.9 To approve terms and conditions for the lease to or from a third party of property to be held on their Service account, subject to the terms of Paragraph 2.1.5 (4).
- 3.2.10 To review and ensure compliance with the requirements of existing and new legislation and statutory regulations, and the Council's policies in respect of those matters.
- 3.2.11 Each Executive Director is authorised, in terms o

and Community Planning.

- 3 The Chief Executive provides leadership, direction and motivation for staff and is responsible for the management of other resources to ensure

(B) EXECUTIVE DIRECTOR - CUSTOMER SERVICES

The Executive Director - Customer Services is authorised -

- 1 To act as Proper Officer in terms of Sections 33A, 40, 50B(2), 50C(2), 50F(2), 223 and 231 of the Local Government (Scotland) Act 1973 and otherwise in relation to the arrangements for the conduct of business arising at any meeting of the Council, a Committee or Sub-Committee.
- 2 To act as Proper Officer in terms of Section 206 of the Local Government (Scotland) Act 1973 and to have custody of all archives and regalia, and, in consultation with the Provost, to determine all matters relating to the flying of flags on Council buildings.
- 3 To determine applications for public processions and charitable collections under the Civic Government (Scotland) Act where no objections are received.
- 4 To maintain a panel of Safeguarders and Legal Representatives for appointment in connection with the interests of any child in connection with any proceedings before the Sheriff or a Children's Panel, and to determine fees in accordance with Council policies.
- 5 To act as Proper Officer in terms of Sections 19 and 30 of the Local Government & Housing Act 1989 and the relevant provisions of the Local Governance (Scotland) Act 2004 and related regulations regarding Councillor remuneration and expenses.
- 6 To act as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989.
- 7 To act as or to designate a suitably qualified officer to act as Clerk to the Licensing Board in terms of the Licensing (Scotland) Acts 1976 and 2005.
- 8 To act as or to designate a suitably qualified officer to act as the "proper officer" in terms of Sections 92, 145, 190, 191, 193, 194, 202 and 204 of the Local Government (Scotland) Act 1973 and to sign and arrange as necessary for the affixing of the Common Seal of the Council to all deeds and other documents which require to be sealed with the Common Seal of the Council.
- 9 To act as or to designate a suitably qualified officer to act as Solicitor to the Council and as such to sign missives and other similar documents binding the Council, except where otherwise provided for in this Scheme.
- 10 To engage private legal firms or Counsel for Court and other legal work if and when she/he may consider this to be necessary to enable the legal work of the Council to be carried out and appoint Parliamentary Agents.

Head of Strategic Finance.

- 22 To determine applications for licences under the Cinematograph Act 1909 and the Theatres Act 1963, where unopposed.
- 23 To act as the proper officer for the Statutory Functions and obligations of the Council under all current, relevant legislation relating to Freedom of Information, Regulation of Investigatory Powers Act and Regulation of Investigatory Powers (Scotland) Act and Data Protection. To determine requests for review of refusal, or partial refusal, to provide information, or any procedural matter relating to a request for information in terms of the Freedom of Information (Scotland) Act 2002 or the Environmental Information Regulations.
- 24 To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
- 25 To act as the proper officer in terms of the Local Government (Scotland) Acts 1973 and 1975, the Abolition of Domestic Rates Etc.(Scotland) Act 1987, the Local Government Finance Act 1992 and associated legislation for all purposes including the preparation and issue of Council Tax and Rates Notices, the collection of Council Tax and Rates, the receiving and settling of claims for any exemption, the handling of objections to any amount levied and the abatement, remission or repayment of any Rates or Council Tax under the various statutory provisions.
- 26 Determine applications for mandatory or discretionary relief of Rates in accordance with the council's policies; and to be responsible for the collection of relevant charges and for the administration of housing and Council tax benefits.
- 27 Enter into arrangements with the Water Authority in relation to the collection of water and sewerage charges.
- 28 Enter into arrangements with others concerning the collection of Rates, Community Charge or Council Tax on behalf of the Council and to make arrangements with each agent as to suitable collection points.
- 29 Make the necessary arrangements concerning terms and commissions payable for services rendered to the Council by other agents with regard to the collection of Rates, Community charge and/or Council Tax and the administration of any Community Charge or Council Tax rebate or discount schemes etc.
- 30 To exercise the Council's powers to initiate sequestration proceedings.
- 31 To provide a valuation and estates service in respect of the valuation and management of heritable property.
- 32 To approve the terms for the lease or disposal of property surplus to the requirements of the Council within the terms of the Contract Standing

Orders.

- 33 To maintain a list of all heritable property owned or leased by the Council and to appeal rating assessments in respect of council property and determine the conduct and settlement of any such appeal.
- 34 To issue decision notices on reviews determined by a Local Review Body under the terms of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 35 To undertake all building maintenance work (excluding housing account work) within approved expenditure either by Direct Labour or by the use of maintenance contractors subject to the provisions of the Contract Standing Orders.
- 36 To inspect, assess, instruct and supervise repairs and maintenance of Council property.
- 37 To arrange for any necessary alterations or adaptations, up to a value of £25,000 on any one project for the purpose of realising the service potential or commercial potential of a property owned or leased by the Council, subject to provision being available within the relevant budget.
- 38 To arrange and provide cleaning services in Council property as required within approved expenditure, either by directly employed staff or by the use of contractors.
- 39 To arrange and provide a catering service for the relevant services of the Council within approved expenditure either by directly employed staff or the use of contractors.
- 40 To act as, or arrange for the appointment of, a suitably qualified officer to

- 3 To arrange in-service courses for Chaplains to schools as and when considered desirable.
- 4 To carry out the functions of the Council as Education Authority in relation to the provision of education for recorded children in terms of the Education (Additional Support for Learning) Scotland Act 2004.
- 5

following academic year and a report on the implementation of the plan as defined in the Standards in Scotland's Schools etc. Act 2000.

- 41 To secure the provision of pre-school education for those children whose parents request such provision all in terms of Sections 32 to 34 of the Standards in Scotland's Schools Etc. Act 2000.
- 42 To authorise the provision of school transport as described in Section 37 of the Standards in Scotland's Schools Etc Act 2000 within the financial limits agreed by the Council.
- 43 To manage the Council's Library and Museums Services;
- 44 To manage and factor houses provided by the Council on the Education Account
- 45 To determine and issue approvals for improvement, repairs and standard amenity and environmental grants;
- 46 To make payments by way of compensation in cash or in kind as may competently be made by the Council in exercise of their statutory housing functions;
- 47 To take such action as necessary in the allocation of emergency accommodation as may from time to time be the statutory obligation of the Council;
- 48 To determine applications under Part II of the Housing (Scotland) Act 1987 as amended by the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003 relating to homeless persons;
- 49 To be responsible for implementation of the provisions of Part IV of the Housing (Scotland) Act 1987 relating to sub-standard houses;
- 50 To be responsible for implementation of the provision of Part V of the Housing (Scotland) Act 1987 relating to repairs of houses;
- 51 To be responsible for implementation of the provision of Part VI of the Housing (Scotland) Act 1987 relating to Closing and Demolition Orders;
- 52 To be responsible for implementation of Part VII of the Housing (Scotland) Act 1987 relating to overcrowding.
- 53 To be responsible for the amendment of Housing Provision and the preparation of a Local Housing Strategy in accordance with the Housing (Scotland) Act 2001.
- 54 To carry out the Council's functions under the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 and subsequent legislation.

- vii Section 25 of the 1995 Act which imposes on the Council a duty in certain circumstances to provide accommodation for a child in care.
- viii Section 26 of the 1995 Act which empowers the Council to provide accommodation for a child looked after by them by placing him/her with a family relative or any other suitable person or maintaining him/her in a residential establishment or make other suitable arrangements; and Section 32 which empowers the Council to remove any child from a residential establishment.
- ix Section 30 of the 1995 Act which empowers the Council to grant financial assistance to persons over school age but under 21, who are now, or have at any time after ceasing to be of school age, been in the care of the Council, to enable them to meet expenses in connection with their maintenance, education or training, in accordance with any policies approved by the Council.
- x Section 29 of the 1995 Act which imposes on the Council a duty of aftercare in respect of any child over school leaving age who was at the time when she/he ceased to be of that age or at any subsequent time but is no longer in the care of the Council or of a voluntary organisation, in accordance with any policies by the Council.
- xi Section 28 of the 1968 Act which empowers the Council to make arrangements for the burial or cremation of any person who was in the care of or was receiving assistance from the Council at the date of death and to recover where appropriate any expenses so incurred which are not recoverable under the National Insurance Act 1965.
- xii Section 29 of the 1968 Act which empowers the Council to pay the expenses incurred by a parent, relative or other person visiting a person in the care of the Council, or incurred in attending the funeral of a person who was in the care of or was receiving assistance from the Council if it appears that the parent or relative or other person would otherwise be caused unnecessary hardship in making the visit and that the circumstances warrant the making of the payment.
- xiii Section 71 of the 1995 Act which requires the Council to give effect to a supervision requirement made by a Children's Hearing for its area.
- xiv To authorise the emergency transfer of placement of a child subject to a supervision requirement in terms of section 72 of the 1995 Act.

- xv Section 73(4) of the 1995 Act which requires the Council to seek review by a Children's Hearing of a supervision requirement in certain circumstances.
- xvi To arrange or assist in arranging holidays or other absences appropriate to the needs of the child, of any child in the care of the Council in accordance with the policies of the Council.
- xvii To carry out the functions of the Council under Section 48 of the National Assistance Act 1948 relating to the temporary storage of furniture in certain circumstances on behalf of certain persons.
- xviii To appoint Mental Health Officers in terms of the Mental Health (Care and Treatment) (Scotland) Act 1984.
- xix To provide aids and adaptations for the homes of handicapped persons within the budget available for this purpose and in accordance with the policies of the Council.
- xx To carry out the functions of the Council in relation to the Adoption of Children in terms of the Adoption and Children (Scotland) Act 2007 and the Children Act 1995.
- xxi To carry out the functions of the Council as Care Authority under the Looked After Children (Scotland) Regulations 2009.
- xxii To determine assistance with legal fees (in consultation with the Executive Director - Customer Services) and medical expenses in relation to adoptions.
- xxiii To determine applications for the revision of maintenance rates for private/voluntary sector homes outwith the provisions of the National Health Service and Community Care Act 1990.
- xxiv To determine fees for curators ad litem, foster parents and community carers in accordance with Council policies.
- xxv To exercise the functions of the Council in relation to the National Health Service and Community Care Act 1990 for the purpose of implementing the Council's policies in relation to financial assessment systems for chargeable services within packages of community care.
- xxvi To enter into contracts with private and voluntary agencies for the provision of services relative to the Council's policies in relation to the discharge of its functions under the National Health Service and Community Care Act 1990.

- xxvii To authorise the Executive Director - Community Services to make direct payments in terms of the Community Care (Direct Payments) Act 1996 and the Community Care & Health (Scotland) Act 2002 to service users who meet the eligibility criteria to purchase their own services.
- 56 To designate the Chief Social Work Officer to act as the proper Officer, and serve any notice and take any action on behalf of the Council, in relation to the Council's functions in regard to -
- i The Chronically Sick And Disabled Persons Act 1970 and the Disabled Persons (Services Consultation And Representation) Act 1986.
 - ii Part IV of the Children And Young Persons (Scotland) Act 1937.
 - iii The National Assistance Act 1948
 - iv The Disabled Persons (Employment) Act 1958.
 - v The Matrimonial Proceedings (Children) Act 1958.
 - vi The Adults with Incapacity (Scotland) Act 2000.
 - vii Sections 51, 217, 235, 236 and 237 of the Criminal Procedure (Scotland) Act 1975.
 - viii The Children (Scotland) Act 1995.
 - ix The Adoption and Children (Scotland) Act 2007.
 - x The Adoption (Scotland) Act 1978.
 - xi Sections 21 to 23 of the Health And Social Services And Social Security Adjudication Act 1983.
 - xii The Mental Health (Care and Treatment) (Scotland) Act 2003.
 - xiii The Foster Children (Scotland) Act 1984.
 - xiv Sections 38(b) of the Housing (Scotland) Act 1987.
 - xv The Crime and Disorder Act 1998
 - xvi The Management of Offenders (Scotland) Act 2005
- 57 To manage the swimming pools, public halls and other indoor recreational facilities provided or operated by the Council and to take action as may be necessary.

(D) EXECUTIVE DIRECTOR - DEVELOPMENT & INFRASTRUCTURE SERVICES

The Executive Director - Development & Infrastructure Services is authorised –

- 1 To determine all applications which are defined as local developments in accordance with the hierarchy regulations.

But excepting from that generality the following types of applications:

P(a) Any category of application which Ministers direct in terms of Section 26(a)(3) of the Planning Etc Scotland Act 2006 be not determined by an officer;

P(b) Any application made by the Planning Authority, itself or where the Planning Authority have an ownership or a financial interest in the land, which is the subject of the application;

L(c) Any application, which attracts a significant body of objection ie more than 10 individual objections on planning policy or land use grounds;

P(d) Any application made by an elected Member of the Planning Authority.

For the avoidance of doubt any determination under the foregoing section of the Scheme of Delegations will be subject to local review provided that the decision on the application has been made by the “Appointed Officer” including the right of an applicant to seek a review on a non determination of such a category of application within the time periods specified in the relevant regulations.

- P2 To determine applications for major developments which in the opinion of the Executive Director - Development & Infrastructure Services would not be a significant departure from the development plan and for which there had been no significant body of representation ie 10 or less objections on planning policy or land use grounds.

- L3 To determine applications for variation of planning consents under Section 64 of the Town and Country Planning (Scotland) Act 1997.

- L4 In consultation with the Executive Director - Customer Services to determine that a public local inquiry be held in connection with any particular appeal against refusal of planning permission or similar procedure, and in that respect to determine the Council’s position on any appeal against a non determination of an application.

- L5 To determine certificates of lawfulness in terms of Section 150 and 151 of the Town and Country Planning (Scotland) Act 1997.

- L6 To determine all consultative applications and assessments of a technical nature under Delegated Legislation including the power to raise objections.
- L7 To determine prior notifications included in and introduced by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and revocations and modifications to planning permissions under Sections 65, 66, 67 of the Town and Country Planning (Scotland) Act 1997 where there are no significant objections ie ten or less objections on planning policy or land use grounds.
- L8 To determine hazardous substances consents in terms of the Planning (Hazardous Substances) (Scotland) Act 1997 where there are no significant objections, ie 10 or less objections on planning policy
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- L17 To determine whether to institute enforcement proceedings on any breach of planning control under all relevant legislation and to make service of any relevant notice or order.
- L18 To act as the proper officer for the statutory functions of the Council under all relevant legislation relating to the functions of the Council as Planning Authority, and to issue all necessary decision notices or other statutory documents as may be required.
- L19 To appoint as inspectors and authorised officers for the purpose of the administration and enforcement of the legislation referred to in the foregoing paragraphs such officers as he/she may deem necessary and appropriate.
- L20 In terms of Part 1 of the Land Reform (Scotland) Act 2003 –
- i. To sign and issue statutory written notices;
 - ii. To deal with enforcement complaints where after investigation no breaches of Sections 14 or 23 or any bye-law made under Section 12 have been identified;
 - iii. To authorise officers to enter on to land not owned or under the control of the Council to carry out remedial works under Sections 14, 15 and 23;
 - iv. To authorise reports for submission to the Procurator Fiscal;
 - v. To approve or refuse all applications for a one to five day Land Exemption Orders;
 - vi. To recommend approval to Scottish Ministers for six day to two year Land Exemption Order applications and amendment, revocations and re-enactment of Orders previously granted where no significant objections are received;
- 21 To grant applications and issue completion and other related Certificates, and refuse unappealed applications under the Building (Scotland) Acts. To issue an order under the said Acts in terms of demolishing or making good a dangerous building, including notices under Section 13 of the Building (Scotland) Act.
- 22 To determine the award of assistance under the terms of Schemes of Business Development, including Business Gateway, or Employment Support approved from time to time by the Council.
- 23 To determine tenders and approve public and school transport contracts of under £200k.

- 33 To determine applications for licences in respect of caravan sites.
- 34 To carry out the following functions of the Council in terms of the Roads (Scotland) Act 1984:-
- (1) Under Section 13 the service of appropriate notices in relation to the imposition on frontagers of the requirements to make up and maintain private roads;
 - (2) Under Section 15 in relation to the completion of necessary work in private roads occasioned by an emergency (other than an emergency constituted by a danger as defined in Section 91);
 - (3) Under Section 16(1)(b) in relation to the consideration and determination of applications for the adoption of private roads as public;
 - (4) Under Section 18 in relation to the adoption of footpaths associated with development;
 - (5) Under Section 21 in relation to applications for construction consent for new roads built by a person other than the Roads Authority;
 - (6) Under Section 23 in relation to stopping up or temporarily closing any new road constructed by a person other than the Roads Authority, without consent or in contravention of, or in non-compliance with, a condition imposed by a construction consent;
 - (7) Under Section 31(3) in relation to the service of notices in connection with the drainage of public roads or proposed public roads, on the owner and occupier of the land affected;
 - (8) Under Section 35(1) and (4) and after giving notice in terms of Section 35(5) in relation to the provision of road lighting and related structures;
 - (9) Under Section 51 in relation to the authorisation and withdrawal of authorisation for the planting and maintenance of trees, shrubs, grass and other plants by a person other than the Roads Authority within the boundaries of a public road;
 - (10) Under Section 56 in relation to the authorisation of works and excavations in or under a public road;
 - (11) Under Section 57 in relation to the prevention or termination of dangerous works or excavations in or under

- a public road;
- (12) Under Section 58 in relation to the granting of permission for the deposit of building materials on roads;
 - (13) Under Section 59 in relation to the control of obstructions in roads;
 - (14) Under Section 60 in relation to the marking, lighting and fencing of obstructions or roadworks and for shoring buildings requiring protection in similar circumstances;
 - (15) Under Section 61 in relation to granting permission to place and thereafter maintain apparatus in or under a public road;
 - (16) After consultation with the Chief Constable under Section 62 in relation to the temporary prohibition or restriction of traffic on roads for reasons of public safety or convenience;
 - (17) Under Section 63 in relation to the imposition of the requirement to construct new accesses across road verges or footways where appropriate;
 - (18) Under Section 64(2) in relation to the issue of consent to statutory undertakers for work on footways, footpaths or cycle tracks in connection with their apparatus in terms of Section 64(1)(b);
 - (19) Under Section 66 in relation to enforcing maintenance of vaults, arches, cellars, tunnels and related structures within the vicinity of a road;
 - (20) Under Section 67 in relation to enforcing safety provisions countering outward opening doors, gates, window shutters or bars interfering with the safety or convenience of road users;
 - (21) Under Section 78(2) in relation to the service of notices prior to the diversion of waters where necessary in connection with the construction, improvement or protection of a public road;
 - (22) Under Section 79, to negotiate terms and enter into agreements with bridge owners in relation to future maintenance obligations;
 - (23) Under Section 83 in relation to the prevention of obstruction of the view of road users at or near corners, bends and junctions;
 - (24) Under Section 85 in relation to granting permission for the

location of Builders' skips on roads;

- (25) Under Section 86 in relation to the removal or repositioning of any Builder's skip which is causing or is likely to cause, a danger or obstruction;
- (26) Under Section 87 in relation to the removal from roads of unauthorised structures and the consequent reinstatement of the site;
- (27) Under Section 88 in relation to the removal of projections interfering with safe or convenient passage along a road;
- (28) Under Section 89 in relation to the removal of accidental obstructions from roads;
- (29) Under Section 90 in relation to the granting of consent for fixing or placing over, along or across a road any overhead bridge, beam, rail, pipe, cable, wire or other similar apparatus;
- (30) Under Section 91 in relation to the prevention of danger to road users and the prevention of obstructions caused by roadside vegetation, fences or walls;
- (31) Under Section 92 in relation to granting consent for planting trees or shrubs within five metres of the edge of the made-up carriageway;
- (32) Under Section 93 in relation to the protection of road users from dangers near a road;
- (33) Under Section 94 in relation to the infill of dangerous ditches adjacent to or lying near a road;
- (34) Under Section 99(2) in relation to the issue of consent to persons undertaking works or excavations necessary to

subject to Section 31(3), in connection with carrying out works for protecting roads against hazards of nature;

- (38) To exercise the functions of the Council under Section 152(2) to re-determine the means of exercise of a public right of passage over a road;
 - (39) To act as the “proper officer” to issue a Certificate as provided in Section 96(1);
 - (40) To add and remove from the list of public roads under the Roads (Scotland) Act 1984.
- 35 To carry out the following functions of the Council in terms of the Road Traffic Regulation Act 1984:-
- (1) Under Section 14 in relation to the temporary prohibition or restriction of traffic on roads;
 - (2) Under Section 23 in relation to pedestrian crossings on roads other than trunk roads;
 - (3) Under Section 65 in relation to the placing of traffic signs;
 - (4) Under Section 68 in relation to the placing of traffic signs in connection with the exercise of other powers of the Authority as defined in Sub-Section (1) thereof;
 - (5) Under Section 69 in relation to the removal of signs;
 - (6) Under Section 71(1) in relation to the power to enter land in connection with the placing, replacing, converting and removing of traffic signs;
- 36 To arrange for the advertisement of any proposal for the making, revocation, or variation of Orders and Schemes under The Road Traffic Regulation Act 1984; and Sections 68, 69, 70 & 71 of the Roads (Scotland) Act 1984 and where no objections have been received to make the order in the terms promoted by the Council.
- 37 To grant wayleaves in respect of public utilities;
- 38 To deal with all requests for information in connection with grant applications made under Section 8 of the Railways Act 1974 (Grants to assist the provision of facilities for freight haulage by rail);

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of highways crossing or entering routes of proposed new highways;

41 To agree terms for Bridge Agreements with the British Railways Board and terms of discharge of the Council's liability for annual maintenance and renewal charges in that connection;

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such vehicle; and

fabric and decoration in houses affected by work carried out by the Council under the Noise Insulation (Scotland) Regulations 1975 at the rates and on conditions which may be prescribed from time to time by the Council;

(E) HEAD OF STRATEGIC FINANCE

The Head of Strategic Finance is the Council's Chief Finance Officer and is responsible for advising the Council, its Committees and its Departments on all financial matters and is authorised to –

1. Determine the detailed form of Capital and Revenue Estimates consistent with the directions of the Council;
2. Determine all accounting procedures and financial records of the Council and the principles to be followed;
3. Prepare and submit to the Controller of Audit in accordance with Section 96 of the Local Government (Scotland) Act 1973 the Annual Abstract of Accounts and advertise and make them available for public inspection;