

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Corporate Services
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31 July 2009

**COUNCIL MEETING 6 AUGUST 2009 AT 10.00AM IN THE COUNCIL CHAMBER,
KILMORY, LOCHGILPHEAD**

I enclose herewith item 7 (**Council Constitution**) which was marked copy to follow on the Agenda for the above meeting.

Nigel Stewart
Director of Corporate Services

SUPPLEMENTARY PACK 1

7. **COUNCIL CONSTITUTION**
Report by Director of Corporate Services (Pages 1 - 104)

COUNCIL

ALL MEMBERS

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ARGYLL AND BUTE COUNCIL**COUNCIL MEETING****CORPORATE SERVICES****6 AUGUST 2009**

COUNCIL CONSTITUTION

1. SUMMARY

The decisions taken by the Council on 22 May and 25 June 2009 completed the review of the Council's political management arrangements. At the latter meeting the Council agreed that consequent and other revisions to the Constitution should be brought to the Council in tranches over the remainder of this year. This report brings Parts A, B and C of the Constitution.

2. RECOMMENDATIONS

The Council is invited to adopt Parts A, B and C of the Constitution as circulated with this report.

3. DETAIL**3.1 The Constitution comprises a number of sections –**

- Part A The Constitution Overview
- Part B Standing Orders for Meetings
- Part C Scheme of Administration and Delegations
- Part D Financial and Security Regulations
- Part E Contract Standing Orders
- Part F Ethical Framework
- Part G Members Remuneration and Expenses

The revised parts of the constitution before the Council today relate to Parts A, B and C and incorporate the wording of, and revisions to reflect, decisions taken by the Council since May 2007 (and indeed before) including the recent decisions arising from the review of political management arrangements.

3.2 The vast majority of the revisions attached incorporate changes which the Council has already agreed. Most other changes simply update references to legislation and the opportunity has been taken to do some editorial improvements by way of improving/updating language.

Beyond the substantive changes which reflect decisions already taken, I would

draw attention to the following –

- (1) In Part A, Appendix 1 (at page 18 (foot number)) the opportunity has been taken to revise the Councillor core skills by incorporating those adopted by the Improvement Service. This will facilitate work which is going on to develop Member development and training within the Council.
- (2) In Part C, the opportunity has been taken to update figures, which have not been revised for 10 years or more, to reflect current circumstances.
- (3) In Part C, it is proposed to remove the £5,000 ceiling (which is in the general delegations to officers) from the delegation which enables officers to engage consultants to provide skills and expertise in relation to any contract, research and for delivering training and related services (and the text has been adjusted accordingly).
- (4) In Part C, paragraphs 57 and 58 (on pages 35-40 (foot of page numbers)) of the specific delegations to the Director of Community Services are still being reviewed and revised provisions will be brought to the Council in due course.

Note that the indexes to each Part have still to be revised.

Revisions to the subsequent parts of the Constitution will be brought to the Council during the rest of this year.

Nigel Stewart
Director of Corporate Services
31 July 2009



ARGYLL AND BUTE COUNCIL

THE CONSTITUTION

6 August 2009

The Council's Constitution comprises –		
		Page
Part A	The Constitution	
Part B	Standing Orders for Meetings	
Part C	Scheme of Administration and Delegations	
Part D	Financial and Security Regulations	
Part E	Contract Standing Orders	
	Appendix 1 Procurement Strategy	
Part F	Ethical Framework: The Councillors' Code is incorporated into this Constitution	
	Guidelines – Conduct of Employees	
	Protocol on Member/Officer Relations	
	Public Interest Disclosure Policy	
Part G	Members Allowances Scheme	

THE CONSTITUTION

PART A

The Council is a unitary authority established as a body corporate by the Local Government (Scotland) Act 1994. Since 1 April 1996, following local government reorganisation, It has been providing the full range of local government services to the people of Argyll and Bute across Scotland's second largest local authority area in urban, rural, remote and island communities. Additional information is provided on the Council's website, <http://www.argyll-bute.gov.uk/asp>.

The Operation of the Council

The Council's Constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. The constitution comprises a number of parts and these parts set out the basic rules governing the manner in which the Council conducts its business. Appendices contain more detailed procedures and codes of practice regulating different aspects of the Council's business.

The Council's political management arrangements comprise –

- (1) an Executive which has all the powers of the Council to take decisions on its behalf, with the exception of a small number reserved to the Council by statute or by the provisions of this Constitution;
- (2) four decentralised Area Committees with delegated authority to make decisions affecting local communities, to lead local community engagement, to lead Local Area Community Planning Groups involving Community Planning partners, to bring decision making closer to local people;
- (3) robust governance arrangements in the shape of an Audit Committee (on which there are independent non-Councillor members) which scrutinises and advises on audit and risk management aspects of the Council's business;
- (4) a Planning, Public Service and Licensing Committee which provides a strategic reference point to take decisions relating to regulatory and quasi-judicial matters including development management;
- (5) four Policy and Performance Groups to monitor and review achievement of key outcomes in the Corporate Plan within relevant thematic areas, and to support effective collaboration between and within public, voluntary and community organisations.

Both Councillors and Council employees are servants of the public, they have separate responsibilities: Councillors are responsible to the electorate, the employee is responsible to the Council as a whole. They have separate roles: the Councillors' role is to determine policy and direction, scrutinise performance and achievement of outcomes, and to participate in decisions on matters placed before them. Direct operational management of the Council's services is the responsibility of the Council's Chief Executive and Strategic Management Team.

PART I

THE CONSTITUTION, THE COUNCIL AND THE CITIZEN

1. The Constitution

Exercise of powers and duties

- (1) The Council will exercise all its powers and duties in accordance with the law and this Constitution.

The Constitution

- (2) This, together with the documents that follow, is the Constitution of Argyll and Bute Council.

Purpose of the Constitution

- (3) The purpose of the Constitution is to –

- Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Support the active involvement of citizens in the process of council decision making;
- Help councillors represent their constituents more effectively
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision makers to public account;
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Provide a means of improving the delivery of services to the community.

Interpretation and review of the Constitution

- (4) Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that it thinks is closest to the purposes set out in subparagraph (3).

2. Members of the Council

Composition

- (1) The Council comprises 36 Councillors representing 11 multi member wards of either 3 or 4 members.

Election and term of councillors

- (2) The ordinary election of all councillors takes place on the first Thursday in May in years prescribed by the Scottish Parliament.
- (3) The term of office of councillors is prescribed by Parliament, with all Councillors retiring together.

Roles and functions of all councillors

- (4) All councillors –

- collectively act as ultimate policy makers and carry out a number of strategic and corporate functions;
- represent their communities and bring their views into the Council's decision making process, that is to say, become the advocate of and for their communities;
- deal with individual casework on behalf of constituents assisting in resolving particular concerns or grievances;
- balance different interests, representing their ward and their electorate as a whole;
- are involved in decision making;
- are available to represent the Council on other bodies; and
- maintain the highest standards of conduct and ethics.

Appendix 1 contains a detailed description of the role and duties of a Councillor.

Rights and duties

- (5) Councillors have an absolute right of access to meetings of the Council, and also to meetings of Committees and Sub-Committees in accordance with the detailed provisions contained elsewhere in this Constitution. They have the right of access to the documents, information, land and buildings that are owned or in the possession or control of the Council in so far as such access

is necessary for the proper discharge of their duties as a Councillor and in accordance with the law.

- (6) Without the Council's consent, councillors must not make public information which is confidential or exempt (as defined in Section 50 of the Local Government (Scotland) Act 1973) or divulge information given in confidence to them as a Councillor to anyone other than another councillor, or an officer, entitled to know it.

Conduct

- (7) Councillors must at all times observe the Councillors' Code of Conduct, and the provisions of this Constitution.

Remuneration and Expenses

- (8) Councillors are entitled to receive remuneration and expenses in accordance with regulations approved by Parliament for approved duties specified elsewhere in this Constitution.

3. The Full Council

Policy framework

- (1) The policy framework means the following plans, policies and strategies;
- The Corporate Plan;
 - Annual Service Plans and estimates of expenditure and income (the Budget) ;
 - A Corporate Best Value Improvement Plan;
 - The Planning and Performance Management Framework
 - The Community Plan and any Single Outcome Agreement with Government in so far as they relate to the provision of Council Services
 - The Integrated Children's Services Plan;
 - The Community Care Plan;
 - The plans and strategies which together comprise the Development Plan;
 - The Anti Social Behaviour Strategy;

- The Early Years Development Plan;
- The Food Law Enforcement Service Plan;
- The Carbon Management Strategy;
- The Biodiversity Strategy
- The Local Transport Strategy;
- The Asset Management Strategy
- The Risk Management Strategy
- The Treasury Management Policy
- The School Estate Strategy
- The Local Housing Strategy
- Any other plan or strategy that the Council has decided should be part of the Policy Framework.

Budget

(2) The “budget” includes –

- Annual approved Corporate and Service Plans
- The approved estimates of revenue expenditure
- Any reserve funds;
- The council tax base and setting the council tax;
- The approved programme of the Council’s capital expenditure and decisions relating to the control of the Council’s borrowing requirement.

Functions exercised by the full Council

(3) Only the full Council will exercise the functions –

- Adopting and changing the Constitution;
- Approving, adopting or amending the policy framework and any plan, policy or strategy which is contained within the Policy Framework;
- Approving the budget and expenditure not provided in the budget;
- Appointing a Councillor to any Executive position as defined elsewhere in this Constitution;

- Agreeing and amending the terms of reference for committees, deciding on their composition and making appointments to them;
- Reserved to it in terms of detailed provisions elsewhere in this Constitution;
- Making decisions about all other matters that by law must be reserved to the full Council.

Council meetings

- (4) A Council, Committee, Sub-committee, or Policy and Performance Group meeting will be conducted in accordance with the Council's *Standing Orders for Meetings*.

Responsibility for functions

- (5) The Council's arrangements for the discharge of functions which are set out in the Council's *Scheme of Administration and Delegations* provide for certain powers and duties of the Council to be discharged on the Council's behalf by a Committee, Sub-Committee or an officer.

4. Decision making

Principles of decision making

- (1) All decisions of the Council, or any Committee or Sub-Committee will be made in accordance with certain immutable principles, which are –
- Proportionality (that is to say, the action must be proportionate to the desired outcome);
 - Due consultation with and the taking of and consideration of professional advice from officers;
 - Respect for human rights (see below);
 - A presumption in favour of openness; and
 - Clarity of aims and desired outcomes.

Decision making by Council bodies acting as quasi-judicial bodies

- (2) In acting as a tribunal or in a quasi-judicial manner the Council, a councillor or an officer must follow a proper procedure which accords with the requirements of natural justice and the right to a fair and impartial hearing in accordance with article 6 of the European Convention on Human Rights.

5. Citizens' Rights and the Council

Information

The Council is committed to open and transparent Government and to meeting its responsibilities under the Freedom of Information (Scotland) Act 2002. The Council has a procedure for complying with the Act in relation to the provision of information and the conduct of reviews of decisions whenever requested.

(1) Citizens have the right to –

- Attend meetings of the Council, its Committees, Sub-Committees and Policy and Performance Groups except where confidential or exempt information (as defined in Section 50 of the Local Government (Scotland) Act 1973) is likely to be disclosed, and the meeting is therefore held with the public excluded;
- See reports and background papers and any records of decisions made by the Council or any Committee, Sub-Committee or Policy Development Group ; in accordance with the foregoing provisions of the Local Government (Scotland) Act 1973 and otherwise in accordance with the law;
- Inspect the Council's accounts in accordance with the relevant statutory provisions;
- Information held by the Council, in accordance with the Freedom of Information (Scotland) Act 2002;
- Personal information held by the Council in regard to them in terms of the Data Protection Act 1998.

Participation

(2) Citizens have the right –

- to participate in public question time arrangements made from time to time by Committees, provided the matter is not one where the Committee or other body is regulated under Paragraph 4 (2) above;
- to raise issues of their choosing with the Council, represent their views to their local Councillor(s) and the Council in writing, by telephone and email, at Councillors' surgeries or other particular meetings; in accordance with the Community Engagement Strategy; at community forums or meetings arranged by the Council with a view to consulting communities on particular issues.

Complaints

(3) Citizens have the right to complain to –

- The Council under its complaints procedure about any service failure;
- The Council's Monitoring Officer under the Council's Public Interest Disclosure Policy;
- The Scottish Public Services Ombudsman if they believe they have suffered injustice as a result of maladministration on the part of the Council;
- The Standards Commission for Scotland if they believe there has been a breach of the *Councillors' Code of Conduct*.

PART II

THE ROLE OF THE PROVOST, DEPUTE PROVOST, LEADER, DEPUTE LEADER AND SPOKESPERSONS

6. Office Holders and Executive Members

Provost

- (1) The Provost and the Depute Provost (although not in themselves Executive Members) are elected by the Council and normally hold office for the life of the Council in accordance with the provisions of the Local Government (Scotland) Act 1994.

Leader

- (2) The Leader and Depute Leader of the Council will be councillors elected to the position of Leader or Depute by the Council, and will normally hold office during the life of the Council unless –
- S/he is suspended from being a councillor (partially or wholly) in terms of the Ethical Standards in Public Life etc (Scotland) Act 2000 (although s/he may resume office subject to the approval of the Council at the end of the period of suspension); or
 - S/he is removed from office by resolution of the Council.

Spokesperson

(3) The Council accepts that Spokespersons and Depute Spokespersons will be appointed to such positions by the Council on the nomination of the Leader. A spokesperson will hold office until otherwise determined by the Council (but not beyond the life of the Council) unless:

- S/he is suspended from being a councillor in terms of the Ethical Standards in Public Life (Scotland) Act 2000 (although s/he may resume office subject to the approval of the Council at the end of the period of suspension).

Appendix 1 contains a detailed description of the role and duties of the Provost, Leader and Spokespersons.

7. Overview and Scrutiny

- Responsibility for achieving outcomes identified in the Corporate and Service Plans lies with the Executive who will receive performance information in accordance with the Planning and Performance Management Framework. Similar responsibilities lie with Area Committees in respect of Area Plans and the local delivery of Council Services, and Policy and Performance Groups in respect of key elements of the Corporate Plan.
- The Audit Committee (which will comprise Councillors none of whom shall be a Spokesperson or Member of the Executive and two non-Councillor members) has the remit given to it within the Scheme of Administration and Delegations and will monitor, and provide guidance and advice in relation to financial audit, governance and risk management .

8. Committees

The Council will appoint the committees set out in the Scheme of Administration and Delegations and may appoint other Committees.

PART III

AREA COMMITTEES AND COMMUNITY PLANNING

9. Area Committees

Area Committees

- (1) The Council will appoint area committees in fulfilment of the provisions of the Council's Decentralisation Scheme.
- (2) The composition and terms of reference of the area committees appointed by the Council from time to time are set out in the Scheme of Administration and Delegations.

10. Community Planning

The Local Government in Scotland Act 2003 provides the statutory basis for Community Planning a process intended to ensure the members of the Community Planning Partnership work together to achieve common goals for the people of Argyll and Bute. Argyll and Bute Council leads the Argyll and Bute Community Planning Partnership working with public service and third sector organisations and community groups.

PART IV

OFFICERS

11. Officers

Chief Executive

- (1) The Chief Executive is the head of paid service and is principal advisor to the Council on all matters of policy and strategic direction and is responsible for the implementation of Council aims and priorities, including leading the delivery of Best Value and Community Planning.
- (2) The Chief Executive provides leadership, direction and motivation for staff and is responsible for the management of other resources to ensure that the Council's policies and priorities are delivered in an efficient and effective manner.

Strategic Directors

- (3) The Strategic Directors (Community Services, Corporate Services, Development Services and Operational Services) are the Heads of the Council's Service Departments.

Strategic Management Team

(4) The Chief Executive, the Executive Directors and the Head of Strategic Finance collectively form the Council's Strategic Management Team.

(5) The Strategic Management Team is responsible –

- for the operational management of the Council and its employees
- for the delivery of the Council's services
- for advising the Council on overall strategic and corporate development
- for achieving the outcomes contained in the Council's strategic policies and plans

12. The Monitoring Officer

(1) The Director of Corporate Services is the Council's Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989 and has the following functions –

- (a) the statutory functions prescribed in that Act
- (b) to report to the Council if s/he considers that any decision or proposed decision would be contrary to law or any decision, proposed decision or omission would be likely to give rise to maladministration on the part of the Council or any of its Members or Officers
- (c) to maintain the Council's Constitution and its governance arrangements
- (d) to deal with any matter in terms of the Council's Public Interest Disclosure Policy
- (e) to deal with any matter referred to him/her by the Council, the Chief Executive, the Ombudsman or the Standards Commission.

(2) A report prepared by the Monitoring Officer relating to circumstances outlined in subparagraph (b) above for submission to the full Council will have the effect of stopping the proposal or decision from being implemented until the report has been considered by the Council.

13. The Chief Finance Officer

The Head of Strategic Finance is the Council's chief finance officer in terms of section 95 of the Local Government (Scotland) Act 1973 and has responsibility for the administration of the financial affairs of the Council and for the provision of financial advice to the Council.

PART V

MISCELLANEOUS

14. Finance, contracts and legal matters

(1) The Council's *Financial and Security Regulations* will govern the financial management of the Council.

(2) The Council's Contract Standing Orders will govern the making of contracts, in the name of the Council.

Appendix 1

ARGYLL AND BUTE COUNCIL

ROLE AND DUTIES OF COUNCILLORS

("A Job Description for Councillors")

PART A: ALL COUNCILLORS

1.	INTRODUCTION
	<p>Being a local Councillor is an honourable job which can be a rewarding and enriching experience. It is no easy task being a Councillor. Society needs to have people, whether at a national or local level who are able, willing and prepared to take decisions on its behalf about matters which affect the lives of citizens and who are prepared to be accountable for these. Democratic election gives local Councillors, like Members of Parliament, a special status in public life which brings with it opportunities to contribute to the well being of society, and in doing so, responsibilities to act fairly and within the law.</p>
2.	ROLE OF COUNCILLORS
	<p><u>Local government serves the people</u></p> <p>Providing public services is a prime function of local government. Local Councils are not the only providers of services to the public but no other public body provides the range of services which a local Council does. Providing services to meet community needs and aspirations requires the development of policy about the nature of services to be provided and the planning of the delivery and resourcing of those services.</p>
	As a Councillor, he or she will, therefore, participate as –
	<ul style="list-style-type: none"> • A policy maker • An executive decision taker • A scrutiniser of the effectiveness of the Council in achieving its desired outcomes and delivering services
	<p><u>Local government represents the people</u></p> <p>Councillors are elected and then have a democratic legitimacy. They represent the people of their communities (including those who did not vote for them). Whatever service delivery functions a Council has (and even if there were none) this representational function would remain.</p>
	As a Councillor, he or she, therefore –

	<ul style="list-style-type: none"> • Is a representative of all of his or her constituents • Is a community leader providing a focus for the development of his or her community.
	<p><u>Local government makes rules</u></p> <p>All societies need principles to which action conforms, if they are to safeguard the freedom, safety and well-being of their citizens. At a national level there is a clear distinction between Parliament, which makes the rules, and Government, which applies them, and the Courts (or other tribunals) which interpret them. A local Council, however, has three roles –</p>
	<ul style="list-style-type: none"> • It must apply certain rules which Parliament has laid down for it
	<ul style="list-style-type: none"> • It may make rules of its own
	<ul style="list-style-type: none"> • It must apply rules of its own which it makes
	<p>By participating in making or administering rules which affect the rights and obligations of citizens, and which include the granting or refusal of permissions, a Councillor, therefore –</p>
	<ul style="list-style-type: none"> • Pays attention to relevant considerations and ignores irrelevant ones
	<ul style="list-style-type: none"> • Considers and weighs evidence
	<ul style="list-style-type: none"> • Considers each issue on its merits
	<ul style="list-style-type: none"> • Acts fairly and within the law
	<p><u>Local government works with others</u></p> <p>Not only is it for Councils to plan and deliver their own services, there is a statutory duty, under the concept of community planning, that Councils take the lead in drawing together the activities of the whole range of public bodies, and the business and voluntary sectors, in identifying a common agenda and drawing together the plans of the partners to address the needs of communities. Beyond that Councils work in a national framework with Government and Parliaments at UK and Scottish level, and with other agencies.</p>
	<p>As a Councillor, he or she fulfils advocacy and ambassadorial role not only on behalf of his or her own community in a local context, but also representing the interests of Argyll and Bute in a wider national arena.</p>
3.	MAIN TASKS
1.	<p>Regular attendance at meetings of the Council, and of any Committee, Sub-Committee and Working Groups to which the Councillor is appointed is an essential component of the policy making and executive decision taking life of the Council.</p>

2.	Dealing with issues raised by constituents by correspondence, telephone and in person on an ongoing basis, and making arrangements to facilitate access by constituents, including “surgeries” or in other ways, contributes to the representative role of the Councillor.
3.	Actively being aware of issues, inside and outside the Council, affecting the Councillor’s electoral ward and the wider Argyll and Bute community fulfils a community leadership and representative function.
4.	Working in partnership with other local organisations to identify and pursue local needs and aspirations and encouraging community action is fundamental to the role of community leader.
5.	As a local community leader, Councillors will be invited by local organisations to participate in local forums and events which collectively provide a focus for community activity and development.
6.	Representing Argyll and Bute on other organisations or agencies to which the Councillor may be appointed or nominated by the Council represents an ambassadorial function articulating the Council’s policies and views and projecting the good image of the Council and Argyll and Bute.

<p>4.</p>	<p style="text-align: center;">Core skills and competencies</p> <p>A commitment to the ethos of public service lies at the heart of being a local Councillor. Active citizenship is a commitment to contributing to and focusing on what best improves the well-being of communities. Beyond those, succeeding with the role of being a Councillor requires a set of core skills. 14 core skills in 6 clusters, set out below, will be underpinned by a set of core competencies.</p> <p>Promoting Change and Improvement 1 Promoting and leading change 2 Providing and improving services</p> <p>Political Understanding 3 Political awareness and skill 4 Advocacy and representation 5 Integrity and values</p> <p>Working Collaboratively 6 Collaborative working 7 Building effective partnerships</p> <p>Effective Communicator 8 Effective communication 9 Personal effectiveness</p> <p>Effective Decision Maker 10 Negotiation and diplomacy 11 Decision making 12 Analysis and innovative problem solving</p> <p>Effective Leader 13 Corporate focus and direction 14 Providing leadership and direction</p>
<p>5.</p>	<p style="text-align: center;">TRAINING</p>
	<p>Each Councillor requires to have a personal development plan designed to achieve at least the core competencies to support the core skill set out above. The Council will provide a range of training opportunities in support of these competencies. To play his or her full part as a Councillor requires a Member to be diligent in accepting the opportunities for training which are provided.</p>

PART B: SPOKESPERSONS	
6.	ROLE OF SPOKESPERSONS
	The Council recognises that, at a political level, to help facilitate the development of policy, to help inform opinion within and outside the Council including to represent the Council's interests with Parliament, Ministers and others, additional responsibilities are placed on certain Councillors who are required to act in the role of Spokesperson for groups of Services for which the Council is responsible. These responsibilities include:-
(1)	Facilitating good communication amongst Spokesperson, the wider membership of the Council, the relevant Strategic Directors and Heads of Service, relevant employees and service users, including –
(2)	Leading on those service matters of political/policy priority at meetings of the Council, the Executive and other Committees and Policy Groups of the Council, providing opportunities for information sessions on issues and aspects of the work relevant to the service, and by providing Spokesperson reports at Executive meetings.
(3)	Supporting the Strategic Director and Heads of Service in taking forward the development of service policy issues.
(4)	The promotion and awareness of service strategies, achievements and constraints in consultation with the Leader and Depute Leader of the Council in order to inform the public, Government and other public and voluntary organisations of the Council's strategies and activities and the reasons for them. To be an ambassador for the service locally and nationally.
(5)	Maintaining good communications with Council employees, providing a bridge between the Council and employees in a manner that provides a political policy background for, and recognition of, their work.
(6)	Participating, at a political level, in the corporate working of the Council, maintaining regular contact with the Leader and Depute Leader of the Council, other Spokespersons, the Chief Executive and Strategic Directors contributing to the development of the Council's corporate strategies in order to help ensure the development of service policy within the corporate environment.
(7)	Reporting back to the Council on meetings with organisations outside the Council, seminars etc, on Service related issues either through regular Spokesperson reports or in other ways.

7.	COMMITMENTS
	<p>The role of Spokesperson places demands on the skills and time of those who fulfil this role, including and in addition to those set out in paragraph 3 above, for example developing and maintaining a pro-active and detailed awareness and understanding of –</p> <ul style="list-style-type: none"> - service policy issues in a local and national context; - financial and budget matters related to the Service ensuring these are understood by the Council. <p>The Council appoints Depute Spokespersons to support Spokespersons over part or the whole of their portfolio. The expectation is that Spokespersons and their Deputies will maintain a close dialogue with Spokespersons and senior officers, meeting regularly to discuss topical Service issues. Depute Spokespersons discharge their portfolio in consort with the Spokesperson and within the policies and strategies of the Council for the Service.</p>
8.	<p style="text-align: center;">PROVOST</p> <p>The role of the Provost</p> <p>The Provost is the Councillor who chairs Council meetings and in that regard possesses the powers and duties given to him/her by statute, this Constitution and the common law.</p> <p>The Provost has precedence, that is to say s/he is the first citizen of the Council area.</p> <p>The Provost's functions are –</p> <ul style="list-style-type: none"> - to promote involvement in the Council's activities; - to act as the conscience of the Council; - to secure the rights of all Members to participate in the Council's decision taking; - to act as a focal point for the whole Argyll and Bute community; - to carry out civic and ceremonial activities and act as an ambassador for the Council and Argyll and Bute. <p>The Depute Provost deputises for the Provost across the full range of responsibilities and functions.</p>

9		LEADER
		The role of the Leader
		<p>The Leader –</p> <ul style="list-style-type: none"> - provides political leadership and direction for the organisation; - promotes the interests of Argyll and Bute Council in particular and Scottish Local Government in general; - represents the Council as its Political Leader at meetings and events; - works across the Council’s political groups to establish clear political direction; - develops and manages the general relationship with the Scottish and UK Government Ministers, MPs and MSPs, COSLA, Parliament and other key organisations and individuals; - leads the Spokespersons; - provides the focus for reputation management at a political level and represents the Council to the media where the importance of the issue demands it; - provides the key political level link between the officer structure and the political structure and provides day to day political direction. <p>In addition to any other position s/he holds the Depute Leader deputises across the full range of functions and responsibilities.</p>

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ARGYLL AND BUTE COUNCIL

CONSTITUTION

PART B

STANDING ORDERS FOR MEETINGS

STANDING ORDERS

INDEX

	Standing Order	Page No.
Adjournment		
- No quorum	4	
- Disorder	9	
- Meeting	12	
Admission of Public and Press	7	
Agenda	3	
Amendments	10	
Application of Standing Orders to Committees and Sub-Committees	27	
Attendance at Meetings		
- As a Non-Member of a Committee or Sub-Committee	22.1	
- Local Members	22.1	
- Exclusion from as a Non-Member of a Committee or Sub-Committee	22.2	
- Failure to attend	6	
- Members to have attended entire "hearing proceedings"	22.3	
- Record of Members present	8.1.1	
Business		
- Order of	8	
- Urgent (see under Urgent Business)		
Changes, Can a Council decision be changed	16	
Committees and Sub-Committees		
- Appointment of Committees and Sub-Committees	19	
- Arranging Meetings	20	
- Special Meetings	20.5	
- Quorum	21	
- Attendance as Non-Member of a Committee or Sub-Committee	22	
Provost/Chairman		
- Absence of	5	
- Appointment of	1	
- Powers and duties of	9	
- To preside at Meetings	5	
Conduct		
- Disorderly by a Member	9	
- Disorderly by Public	7.4	
Confidential Information		

-	Reports not available to the Public	3.4.2	
---	-------------------------------------	-------	--

	Standing Order	Page No.
Contracts		
- Councillors – Interests in	25	
Debate, Rules of	10	
Decisions, Can a decision of the Council be changed	16	
Deputations	18	
Disorderly Conduct		
- By Member	9	
- By Public	7.4	
Education Committee – voting rights of persons interested in Promotion of religious education	21.3	
Exempt Information		
- Reports not available to public	3.4	
- Disclosure of	26	
Financial Regulations and Contract Standing Orders, power to make	29	
Groups, Meetings of Policy & Development	24	
Interests in Contracts and other matters		
- Members	25	
Leader and Depute Leader of the Council, appointment	1.1.3	
Local Member, attendance at Committee and Sub-Committee Meetings	22	
Members		
- Appointment to Committees	1.1.4	
- Appointment to Outside Bodies	1.1.7	
- Attendance at Meetings		
- As a Non-Member of Committee or Sub-Committee	22	
- Exclusion from, as Non-Member of Committee or Sub-Committee	22	
- Local, attendance at Committee or sub-Committee meetings	22	
- Failure to attend meetings	6	
Meetings		
- Adjournment		
- Disorder	9.5	
- Of Meeting	12	
- No quorum	4.5	
- Agenda	3	
- Business, Order of	8	
- Closing a debate, procedural motions	12.3	
- Debate, Rules of	10	
- Minutes of	17	
- Notice of	2	
- Ordinary Meetings		

	-	Council	1.2	
	-	Committees and Sub-Committees	20	
	-	Questions at Council meeting	15	
	-	Quorum		
	-	Council meeting	4	
	-	Committees and Sub-Committees	21	
	-	Special Meetings	1.3	
	-	Summons to Attend	2.3	
	-	Urgent Business		
	-	Motion by Member	14.1	
	-	Other Urgent Business	8.1.4	
	-	Voting (see under Votes)		
Minutes				
	-	Approval of	17.1	
	-	Discussion of and amendment to	17.2	
	-	Dissent from	10.5	
Motions				
	-	Notice of		
	-	For next meeting	13	
	-	Matter of urgency	14	
	-	Procedural		
	-	Closure Motions	12	
	-	Length of Speeches on	10.1	
	-	Not seconded	10.5	
	-	Moving and deciding on	10.1, 2.3 & 4	
	-	Moving approval of report or minute	10.7	
	-	"That the Question be now put"	12.3.1	
	-	"That the Meeting do now adjourn"	12.3.2	
	-	To adjourn a meeting	12.2	
	-	Withdrawal of	10.6	
Outside Bodies, Appointment to			1.1.7	
Pecuniary Interests, Contracts and other matters				
	-	Members	25	
Policy Development Groups, Meetings of			24	
Procedural Motions (See under Motions)				
Public and Press – admission to and exclusion from meetings			7	
Questions at Council Meetings			15	
Quorum				
	-	Committees and Sub-Committees	21	
	-	Council	4	
Rules of Debate			10	
	-	Length of Speeches	10.1	
	-	Point of Order	10.9	
	-	Right to Reply	10.11	
	-	Subsequent amendments, to be moved before debate begins	10.1	

-	Terms of to be stated	10.1	
-	Suspension of Standing Orders	27.1	
-	Withdrawal of motion or amendment	10.6	
-	Writing to be in, if required	10.1	
Scheme of Delegation		28	
Scrutiny of Strategic Policy Committee		30	
Standing Orders			
-	Altering	27.2	
-	Suspending	27.1	
Urgent Business			
-	Motion by Member	14	
-	Other Urgent Business	3.2.2	
Vice Chairmen			
-	Appointment of	1.1.5	
-	Presiding at Meetings	5.2	
Vice Provost			
-	Appointment of	1.1.2	
-	Presiding at Meetings	5.2	
Votes			
-	Casting Vote	11.4	
-	Election, Selection or Appointment of		
-	A Councillor	11.5, 6, 7	
-	Any person other than a Councillor	11.8	
-	Lot – Decision by	11.4	
-	Order of Voting on Motions and Amendments	10.2, 3, 4	
-	“Present and Voting” majority	11.1	
-	Roll Call Vote	11.3	
-	Show of Hands	11.2	
-	Voting Rights, persons appointed to Education Committee	21.3	
Whipping		11.9, 10, 11	

ARGYLL AND BUTE COUNCIL

STANDING ORDERS

1.

MEETINGS

FIRST MEETING AFTER AN ELECTION

- 1.1 The first meeting of the Council after an ordinary election of Councillors will be held within 21 days from the date of the election. At that meeting, the Council will –
 - 1.1.1 Elect the Provost;
 - 1.1.2 Elect the Depute Provost;
 - 1.1.3 Appoint a Leader and Depute Leader of the Council;
 - 1.1.4 Appoint the Members of Committees and Policy and Performance Groups of the Council;
 - 1.1.5 Appoint the Chairs and Vice Chairs of these bodies
 - 1.1.6 Confirm the appointment of Spokespersons and Deputies
 - 1.1.7 Appoint the Members to represent the Council on any Joint Committees or Boards which the Council should appoint, if they need to be appointed at this meeting; if they do not they can be made at another Council meeting;
 - 1.1.8 Appoint persons to serve on various outside bodies if these appointments need to be made by the Council at this meeting; if they do not they can be made at another Council meeting or by a Committee.
 - 1.1.9 Deal with any competent business, keeping to the terms of any law and these Standing Orders.

ORDINARY MEETINGS

- 1.2 Ordinary meetings of the Council will be held on the dates and at the times which the Council decide. These meetings will normally be held in Kilmory Castle, Lochgilphead, but the Council or the Provost may decide that a meeting should be held somewhere else.

SPECIAL MEETINGS

- 1.3 A Special Meeting of the Council may be called at any time –
 - 1.3.1 If the Provost takes the view that one is necessary; or

- 1.3.2 If at least one-fourth of the members of the Council want one to be held; if they do, they must all sign a notice which must be given to the Director of Corporate Services and the notice must set out the business which these Members wish the Council to consider at that meeting; in this case the meeting will be held within fourteen days of the date when the Director of Corporate Services receives the notice.

2

HOW MEETINGS ARE CALLED

Public Notice

- CS** 2.1 Three clear days at least before a meeting of the Council, the Director of Corporate Services will display a notice at the Council's Headquarters saying when and where the meeting will be held. If a meeting is called at shorter notice in case of urgency then the notice will be displayed at the time it is called ["Clear days" excludes the day of publication and the day of the meeting and does not include Saturdays, Sundays or public holidays].
- CS** 2.2 If the meeting is called by Members of the Council, the notice must be signed by those Members and must set out the business which they wish the Council to consider; and only that business can be considered at the meeting.

A Summons must be sent to each Member

- CS** 2.3 Seven days at least before a meeting of the Council, the Director of Corporate Services will issue a summons to each Member asking that Member to attend the meeting. Saturdays, Sundays and Public Holidays will not be excluded for the purpose of this Standing Order. The summons will set out the business which the Council will be asked to consider at that meeting. It will be signed by the Director of Corporate Services and left at, or sent by post, to each Member's usual residence, or to another address which any Member may give in writing to the Director.
- CS** 2.4 If a Member does not receive a summons the meeting will still be valid.

3

THE AGENDA AND REPORTS FOR MEETINGS

Agenda

- CS** 3.1 The summons will include an Agenda of the items of business for the meeting. These will be set out in the order in which the Council will consider them, but this can be changed at the meeting.
- CS** 3.2 An item of business may only be considered at a meeting of the Council if:-

3.2.1 A copy of the Agenda, including the item, is available for any members of the public who wish to look at it, as provided in paragraph 3.3 below; or

3.2.2 The Provost is of the opinion that the item should be considered at the meeting as a matter of urgency because there are special circumstances; in which case the special circumstances will be recorded in the minutes of the meeting.

CS The public can see copies of the Agenda and most reports

3.3 Copies of the Agenda and, except as set out in paragraph 3.4 below, copies of any report for a meeting will be open and available at the Council's Headquarters and on the Council website for at least 3 clear days before the meeting for any members of the public who may wish to look at these.

Reports can sometimes not be available to the public

CS 3.4 When the Director of Corporate Services believes there is a proper reason she/he may exclude from the copies of reports which are to be available for members of the public who wish to look at them, the whole of a report (or any part of a report) which relates only to items of business which she/he thinks are likely to be considered when the meeting is not to be open to the public. Every copy of any report in that category (or part of that report) will either –

3.4.1 Be marked “Not for Publication” and every copy (or the appropriate part) will say what kind of exempt information the report contains, in keeping with the law. [The relevant law in this case is Schedule 7A to the Local Government (Scotland) Act 1973].

3.4.2 Be marked “Confidential” and every copy (or the appropriate part) will say that it contains confidential information, in keeping with the law. [The relevant law in this case is Section 50A(3) of the Local Government (Scotland) Act 1973].

CS 3.5 It should be borne in mind that reports marked “Not for Publication” or “Confidential” containing information not open to the public at a meeting may require to be disclosed subsequently and made available in compliance with a request for information in terms of the Freedom of Information (Scotland) Act 2002.

- CS** 3.6 Reports from Directors for a meeting must be given to the Director of Corporate Services as early as possible and certainly not later than noon two working days before the day on which the notice of the meeting is to be issued. If the Director does not receive a particular report by that time, he may leave it off the Agenda.

4 HOW MANY MEMBERS MUST ATTEND A MEETING

Quorum

- CS** 4.1 There must be a minimum number of Members present at a meeting of the Council. This is known as the quorum. The quorum of the Council will be 9 Councillors (that is a quarter of all the seats) except in certain special circumstances set out in the relevant law. No business can be considered at a meeting of the Council unless a quorum is present. [The relevant law in this case is Schedule 7 to the Local Government (Scotland) Act 1973].

What happens if there is no quorum?

- 4.2 If there are vacancies in more than 12 seats (that is a third) on the Council, the quorum will be a quarter of the number of Members remaining, but the quorum will never be less than 5 Members (that is an eighth of all the seats).
- CS** 4.3 If, ten minutes after the time set for the start of a meeting of the Council, a quorum is not present, the meeting will be abandoned and the Director of Corporate Services will record that no business was considered because there was no quorum.
- CS** 4.4 If at any time during a meeting there is a question about whether or not there is a quorum, the Provost will, after allowing an interval of 5 minutes, ask the Director of Corporate Services to count the number of Members present.
- CS** 4.5 If a quorum is not present, the meeting will be adjourned to another time the same day, or to another date and time as the Provost may decide then or afterwards.

5 WHO PRESIDES AT MEETINGS?

- CS** 5.1 At a meeting of the Council, the Provost, if present, will preside.
- CS** 5.2 If the Provost is absent from a meeting the Depute Provost will preside; if they are both absent, another Councillor chosen by the Members will preside.

- CS** 5.3 If at any time during the meeting the Provost is present she/he will preside and similarly, in the absence of the Provost, the Depute will preside during any time she/he is present.

6. WHAT HAPPENS IF A MEMBER FAILS TO ATTEND MEETINGS?

- 6.1 If a Councillor, throughout a period of six consecutive months, does not attend any meeting of the Council or any Committee Sub-Committee or Policy and Performance Group of the Council, or any joint Committee to which any function of the Council has been delegated, and unless the Member has been granted leave of absence by the Council, the Director of Corporate Services will inform the Council. In that event, the Council will consider whether the failure to attend was due to a reason approved by them. If they are not satisfied as to the cause of the failure, the Councillor will cease to be a Member of the Council.

7 MEMBERS OF THE PUBLIC ARE NORMALLY ALLOWED TO ATTEND MEETINGS

- CS** 7.1 Every meeting of the Council, its Committees, Sub-Committees and Policy and Performance Groups will be open to the public, except in special circumstances which are set out below.

When are the public sometimes not allowed to be present?

- CS** 7.2 The public must be excluded from a meeting of the Council or a Committee, Sub-Committee or Policy Development Group when an item of business is being considered if it is likely, because of the business itself or what might be said, that confidential information as meant by the relevant law would be given to members of the public. [The relevant law in this case is Section 50A(2) of the Local Government (Scotland) Act 1973].
- CS** 7.3 The Council may decide, by passing a resolution at any meeting, to exclude the public when they are considering an item of business if it is likely, because of the business itself or what might be said, that exempt information as meant by the relevant law would be given to members of the public. The resolution to exclude the public will make clear the proceedings or which part of the proceedings of the meeting it applies to and state the description of the exempt information. [The relevant law in this case is Section 50A(4) of the Local Government (Scotland) Act 1973].

- CS** 7.4 It is always open to the Council in order to stop or prevent disorderly conduct or other misbehaviour at a meeting, to exclude or eject members of the public whose presence or conduct is impeding or is likely to impede good conduct of the meeting. If a member of the public interrupts any meeting, the Provost may warn the person. If they continue the interruption the Provost may order that they are removed from the Council Chamber.

8 THE ORDER IN WHICH BUSINESS IS CONSIDERED AT MEETINGS

- CS** 8.1 The items of business at ordinary meetings of the Council will be considered in the following order, but the order may be changed if the Provost decides.
- 8.1.1 The Director of Corporate Services will record the names of the Members present, and apologies will be given on behalf of any Members who have advised the Provost or the Director they will not be present;
 - 8.1.2 Any deputations to be heard in terms of Standing Order 18;
 - 8.1.3 Motions which it is proposed should be considered without previous notice at the end of the meeting will be read to the meeting by the Director of Corporate Services;
 - 8.1.4 Other items of business which it is proposed should be considered as a matter of urgency will be announced;
 - 8.1.5 Declarations of interest by Members, if any;
 - 8.1.6 Minutes of the previous meeting or meetings of the Council will be considered as a correct record.
 - 8.1.7 Minutes or reports by Committees or Policy Development Groups will be considered in respect of any items on which the Committee has not already acted under delegated powers;
 - 8.1.8 Other business which is included on the Agenda
 - 8.1.9 Questions submitted by Members in terms of Standing Order 15;
 - 8.1.10 Notices of Motion previously submitted in terms of Standing Order 13;

- 8.1.11 Notices of Motion intimated at the start of the meeting in terms of Standing Order 14, provided the Provost is of the opinion that it is a matter of urgency and the Council agree to consider the Motion;
- 8.1.12 Urgent Business, intimated at the start of the meeting, provided the Provost is of the opinion that it is a matter of urgency and the Council agree to consider the business.

9 THE POWERS AND DUTIES OF THE PROVOST

- CS** 9.1 At all times, Members of the Council will respect the authority of the Provost. If the Provost speaks, any Member who is speaking to the Meeting will stop.
- CS** 9.2 The Provost's duty is to preserve order and ensure that Members are given a fair hearing by the Council. If two or more Members try to speak at the same time, the Provost will decide who is to speak first.
- CS** 9.3 The Provost will decide all matters of order, competency, relevancy and urgency and that ruling will be final.

What might happen if a Member misbehaves

- CS** 9.4 If a Member persistently misbehaves by disregarding rulings by the Provost, or behaves improperly or offensively, or wilfully obstructs the business of the Council, the Provost may take any of the following courses of action either separately or in sequence –
 - 9.4.1 Warn the Member about her/his behaviour;
 - 9.4.2 Tell the Member not to speak during the remainder of the debate on the item being discussed.
 - 9.4.3 Move that the Member should not speak again during the meeting. The motion will not require to be seconded, and will be decided without discussion; if the motion is carried the Member will not speak again during that meeting;
 - 9.4.4 Move that the Member should be suspended for the remainder of the meeting. The motion will not require to be seconded, and will be decided without discussion; if the motion is carried the Member will leave the meeting immediately;

9.4.5 Adjourn the meeting for a short time as seems reasonable to the Provost in the circumstances.

- CS** 9.5 If there is disorder at any meeting of the Council, the Provost will be entitled to adjourn the meeting to another time the same day, or to another date and time as she/he may decide then or afterwards, and leaving the Chair in these circumstances will mean that the meeting is adjourned immediately.

10

RULES OF DEBATE

How motions and amendments are moved and decided on

- CS** 10.1 Every motion and amendment must be moved and seconded. The terms of all motions and amendments will be stated immediately when they are proposed and before the Member speaks to the motion or amendment. When a recommendation is on the papers before Members, preliminary discussion of the proposal is allowed. However it is open to the Provost at any time during that discussion to give three minutes warning that he requires any motion and amendments to be placed before him or the discussion will be brought to a close. If the Provost decides, a motion or amendment will be written down, signed by the mover and seconder, and given to the Director of Corporate Services who will read it to the meeting.
- CS** 10.2 When a motion and one amendment only are before the meeting a vote will be taken between the motion and the amendment and the proposal receiving a majority of the votes will become the decision of the Council.
- CS** 10.3 When a motion and two or more amendments are before the meeting, and if one of the proposals implies that no action or no immediate action be taken, a first vote will be taken between for and against “no action” or “no immediate action” as the case may be. If the proposal for “no action” or “no immediate action” is carried it shall become the decision of the meeting. If the proposal for “no action” or “no immediate action” is not carried a further vote will be taken amongst the remaining proposals as set out in 10.4 below.

- CS** 10.4 When a motion and two or more amendments (none of which implies that no action or no immediate action be taken) are before the meeting, the vote will be taken on all the proposals, each Member having one vote. If a proposal receives the support of an overall majority of the Members taking part in the vote, that proposal will become the decision of the meeting. In the event that none of the proposals receives the support of an overall majority of the Members voting, the proposal which has received the fewest votes will be dropped and a fresh vote will be taken on the remaining proposals and so on until one proposal has received the support of a majority of the Members voting. That proposal will become the decision of the meeting. In the event of the votes for two or more proposals being equal, the Provost will have a second or casting vote which s/he may use to decide which of them is to be dropped.
- CS** 10.5 Motions or amendments which are not seconded will not be discussed or recorded in the minutes. Except when the vote is taken by roll call, any Member who has moved a motion or amendment and who is in a minority of one will, if she/he asks, have her/his dissent from the eventual decision recorded in the minutes.
- CS** 10.6 A motion or amendment may be withdrawn by the mover if her/his seconder and the Council agree. Such a motion or amendment will not be inserted in the minutes.
- 10.7 A motion for the approval of a report of or a minute of a Committee or Planning and Performance Group will be considered as an original motion and any proposal involving alteration or rejection of the report or minute will be dealt with as an amendment.
- 10.8 The Chairman of a Committee or Policy and Performance Group, if present, has the right to move approval of the report of or minute of that Committee.

When a Member can speak and for how long

- CS** 10.9 It is open to the Provost at any time to rule that, due to pressure of business and the number of Members wishing to speak to an item, no Member who had already spoken may speak again except on a point of order.
- CS** 10.10 A Member moving or seconding a motion or amendment will not speak for more than three minutes unless the Provost allows more time. Other Members will not speak for more than two minutes.
- CS** 10.11 The mover of an amendment and the mover of the original motion each have a right of reply, in that order, for not more than three minutes.

- CS** 10.12 When the mover of the original motion has replied, the Provost will close the debate, and no other Member will be allowed to speak. The Director of Corporate Services or the Provost will announce the terms of the motion and amendment(s) and take the vote.

11

HOW VOTES ARE TAKEN

- CS** 11.1 Except where the law or the Standing Orders say something different, all questions coming or arising before the Council will be decided by a majority of the Councillors present and voting on that question.
- CS** 11.2 A vote will be taken by a show of hands except in the following circumstances.

Calling the roll

- CS** 11.3 A Member may ask for a vote to be taken by calling the roll. If a quarter of the Councillors present agree then the vote will be taken in that way and the names of those voting for or against the motion or amendment will be taken down and recorded in the minutes.

What happens if votes are equal

- CS** 11.4 In the case of an equality of votes, the Provost will have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a Councillor to any particular office or Committee in which case the decision will be decided by lot [which means a process whereby chance will determine the decision].

Different arrangements apply to appointments

- CS** 11.5 When Councillors are to be appointed to any positions to be filled by the Council, and where the number of candidates nominated exceeds the number of vacancies, the Councillors to be appointed will be determined by a vote or votes in each of which Members will be entitled to vote for as many candidates as there are vacancies; but they may not cast more than one vote for any candidate. The name of the candidate having fewest votes will be deleted from the list and a fresh vote, or votes, will be taken. This process of elimination will be continued until the number of candidates equals the number of vacancies.
- CS** 11.6 Where only one vacancy requires to be filled, and any candidate has an absolute majority of the votes, the candidate will be declared appointed. Otherwise, the name of the candidate having fewest votes will be deleted from the list. This process of elimination will be continued until one candidate has a majority of the votes.

- CS** 11.7 If in any vote among more than two candidates there is equality of votes among the candidates having the least votes, the candidates whose names will be eliminated will be determined by an additional vote. The candidate having fewest votes will be deleted from the list. Where in any additional vote there is equality in votes, the candidate to be eliminated will be determined by lot.
- CS** 11.8 The provisions of the preceding paragraphs will apply in the case of the appointment of any other person (other than a Councillor) except that where there is an equality of votes the Provost will have a second or casting vote.

Whipping

- CS** 11.9 Paragraphs 11.10 and 11.11 will apply on any occasion when an item of business is the subject of consideration at any meeting and that business –
- (1) has been the subject of prior discussion at a meeting of a political group; and
 - (2) at the meeting of the political group there has been an agreement that the group whip is applied to that business.
- CS** 11.10 At the commencement of the consideration of the item of business the Leader, or another member of the group present, will disclose to the meeting that the group whip has been applied to members of the group who are present, and will specify the particular matter or matters in respect of that business to which the whip applies.
- CS** 11.11 The Leader, or the other member, will give notice in writing to the Director of Corporate Services, at the time the disclosure is made in terms of paragraph 11.10, setting out the information disclosed, and the Director will –
- record in the minutes of the meeting the information disclosed; and
 - Keep a register of notices given to him, which register will be open to inspection by any person.

12

PROCEDURAL MOTIONS

- CS** 12.1 The Provost may adjourn a meeting for a reasonable interval if s/he decides there is a good reason to do so.

- CS** 12.2 The Council may adjourn any meeting for a reasonable interval or to another date as the Council may agree then, or that failing, the Provost may decide then or afterwards. The vote on such a motion, on being seconded, will be taken without amendment or discussion and by show of hands. A similar motion to adjourn to another day will not be competent within a period of one hour after the decision on the earlier motion.

Closing debate

- CS** 12.3 The following closure motions will be permitted during discussion of another motion provided the Member moving the closure motion has not spoken during the debate. They will be moved, seconded and voted on without discussion. The Provost will proceed as follows –

12.3.1 “That the question be now put”

If the Provost considers the matter has not been sufficiently discussed, she/he may refuse to accept the motion; if the motion is accepted it will be put to the vote. If the motion is carried, the movers of any amendment and of the original motion will be entitled to a right of reply and the Provost will then put the original motion and amendment to the vote. If the closure motion is not carried, a similar motion may be made after every three additional Members have spoken.

12.3.2 “That the meeting do now adjourn”

If the Provost is satisfied that the matter before the meeting has been well enough discussed, s/he may refuse to accept this closure motion and instead put the motion “that the question be now put”. If the Provost is of the opinion that the matter has not been sufficiently discussed and cannot reasonably be discussed any longer on that occasion, the adjournment motion will be put to the vote without giving the mover of the original motion or amendment a right of reply; if the adjournment motion is carried, the original motion and remaining business will stand over until a resumed meeting of the Council. If this closure motion is not carried, a similar motion will not be competent within a period of one hour after the decision on the previous closure motion.

13 HOW A MEMBER SUBMITS A MOTION FOR THE NEXT MEETING

- CS** 13.1 If a Member wishes a motion to be considered at a meeting (other than one on a matter of urgency under Standing Order 14) it must be written down, signed by the Member and countersigned by another Member, and given or sent to the Director of Corporate Services to be received by her/him at least 10 clear days [clear days excludes the day of publication and the day of the Meeting but does not exclude Saturdays, Sundays or Public Holidays] before the next ordinary meeting of the Council. This is called giving notice of a motion.
- CS** 13.2 These notices of motion will be included on the agenda for the next meeting in the order in which the Director of Corporate Services receives them. If the Provost considers that more than one of these motions deals with the same subject, only the motion received first will be considered.

14 HOW A MEMBER SUBMITS AN URGENT MOTION

- CS** 14.1 A motion which does not relate to the business which is included on the agenda for a meeting may be considered at the end of a meeting even if a Member has not given notice of it under Standing Order 13. It will only be considered if the Provost is of the opinion that it is a matter of urgency because of special reasons, which will be recorded in the minutes, and the Council agree to consider the motion. However, if a Member wishes a motion considered as a matter of urgency, it must be given to the Director of Corporate Services not later than two hours before the start of the meeting. It will be read to the meeting by the Director at the point stated at Standing Order 8.1.3. If the Provost considers that the motion is not urgent then it will be included as an item of business for the next ordinary meeting, unless it is disposed of in some other way before then.

15 A MEMBER MAY ALSO SUBMIT QUESTIONS FOR A MEETING

- 15.1 A Member may put a question to the Leader or to a Spokesperson at any ordinary meeting of the Council. The question, which may comprise a series of component parts about the same subject, must be about any relevant and competent business which is not included on the agenda for the meeting. The Member must give the question in writing to the Director of Corporate Services not later than 48 hours before the start of the meeting.
- 15.2 The person who is being asked to answer a question will decide whether to answer it in writing or orally at the meeting. Questions and any written answers, numbered in the order in which they have been received, will be tabled at the start of the meeting.

- 15.3 Arising from each answer given, the Member who asked the question may ask one supplementary question to clarify the answer given.
- 15.4 No discussion will be allowed, and it will not be competent to move any motion arising from a question or the answer given.
- 15.5 A Member may not submit more than two written questions for any one meeting. If the Provost is of the opinion that a question is out of order for any reason, it will not be answered.
- 15.6 Written questions and any written answers will be recorded in the minutes.

16 CAN A DECISION OF THE COUNCIL BE CHANGED

- CS** 16.1 No motion which seeks to alter or revoke a decision of the Council or has that effect will be considered within a period of 6 months of the original decision.
- CS** 16.2 However, it will be competent to review a decision before the end of the 6 month period, provided –
 - 16.2.1 That notice has been given on the agenda that the previous decision may be altered or revoked, unless it is inherent in the terms of a report of or minute of a Committee submitted to the Council; and
 - 16.2.2 The Provost is satisfied that a material change of circumstances has occurred. This means that the Provost must decide first whether there has been a new development which has a bearing on the original decision or that some important piece of information was not available when the original decision was made. Secondly, the Provost must decide whether this change is material, which means that if the change had taken place before the Council took their decision, or they had known all the facts on which the decision was based, the change of circumstances would have influenced their judgement and they might reasonably have taken a different decision.

17 MINUTES OF MEETINGS

- CS** 17.1 Minutes of meetings of the Council and its Committees, Sub Committees and Policy and Performance Groups will be prepared by the Director of Corporate Services and will be included on the agenda for the next ordinary meeting of the Council, its Committees, Sub Committees or Policy and Performance Groups as appropriate. At that meeting they will be considered, corrected if need be, and where they are held to be a correct record of the meeting, they will be signed by the person presiding at that next ordinary meeting.

- CS** 17.2 No discussion or amendment will be competent on minutes submitted other than an amendment to the effect that they are not a correct record. Any amendment will include the words of the alteration which is proposed to the minutes. An objection to the correctness of a minute will be dealt with by way of an amendment to a motion approving the minutes.
- CS** 17.3 Only Members of the Council who were present at the meeting to which the minutes relate may vote on the correctness of these minutes.
- CS** 17.4 A written summary prepared by the Director of Corporate Services in terms of the relevant law will not constitute part of the minutes and will not be subject to the preceding paragraphs of this Standing Order. [The relevant law in this case is Section 50(2) of the Local Government (Scotland) Act 1973.]

18

DEPUTATIONS

- CS** 18.1 Subject to what is said in Standing Order 18.2 below the Council or any Committee or Sub-Committee may hear deputations, of not more than 3 persons on any matter that is included within their terms of reference and delegation, other than where they are exercising a statutory function to determine an application by any person.
- CS** 18.2 Where a matter is the subject of consideration by more than one Committee, Sub-Committee or Policy and Performance Group, or by one or more of those and the Council, or at more than one meeting of the same body, a request by a deputation to be heard will be considered only at the meeting where it is anticipated that matter will be finally determined (as distinct from being the subject of preliminary consideration or the subject of a recommendation). It will not be competent to consider a request to be heard on the same matter within a period of six months of the original decision, unless the Provost is satisfied that a material change of circumstances has occurred: always provided that where a matter may be the subject of consideration on more than one occasion the Provost will, in her/his sole discretion, determine whether on each occasion the issue to be discussed is so closely related as to be regarded as the same matter.
- CS** 18.3 Every application for a deputation must be in writing, signed by a representative of the organisation or group wishing to be heard and setting out the matter on which they wish to be heard and delivered to the Director of Corporate Services no later than three working days before the meeting concerned; but the Provost may, at her/his sole discretion allow an application to be considered at shorter notice.

- CS** 18.4 When an application is considered whether to hear a deputation, the merits of the matter itself will not be discussed. Unless the meeting agrees unanimously to hear or to refuse to hear the deputation, a vote will be taken without discussion on whether to hear the deputation.
- CS** 18.5 A deputation will have 10 minutes to present its case. If the meeting decides to hear more than one deputation on the same subject, the deputations will be heard together, and the Provost will decide how much time to allow, up to a maximum of 10 minutes each.
- CS** 18.6 Any Member may put one question to the deputation that is relevant to the subject, but the merits of the case must not be discussed by Members whilst the deputation is being heard.
- CS** 18.7 It will not be competent to move any motion arising from the subject matter raised by a deputation, unless the matter is included as an item of business on the agenda for the meeting, and discussion will be reserved until that item is reached.

19. COMMITTEES AND SUB-COMMITTEES

- 19.1 Committees and Sub-Committees will be appointed in terms of the Scheme of Administration and Delegations which is referred to in Standing Order 28.
- 19.2 Standing Orders marked CS will apply to meetings of any Committee, Sub-Committee and Policy and Performance Group with suitable modification.

20. ARRANGING MEETINGS OF COMMITTEES AND SUB-COMMITTEES

- 20.1 The dates of ordinary meetings of Committees will be decided by the Council on the basis of a programme of meetings which will normally be decided each year.
- 20.2 The Chair of a Committee (or in whose absence the Vice-Chair) may for good cause cancel or alter the date, time or place for a meeting of a Committee, but not after the summons for the meeting has been issued. The Chair (or in whose absence the Vice-Chair) may call a meeting of the Committee on dates in addition to those already decided by the Council.
- 20.3 The Chair (or in whose absence the Vice-Chair) of a Sub-Committee will call meetings of the Sub-Committee as these are required.

- 20.4 The dates of meetings of a Policy and Performance Groups will be decided by the Group. The Chair of a Policy and Performance Group (or in whose absence the Vice-Chair) may for good cause cancel or alter the date, time or place for a meeting, but not after the summons for the meeting has been issued.

21. HOW MANY MEMBERS MUST BE PRESENT AT COMMITTEES AND SUB-COMMITTEES

- CS** 21.1 No business will be considered at a meeting of a Committee or Sub-Committee unless at least a quarter of the whole number of voting Members are present; and there must, in any case, be at least three voting Members present.
- 21.2 In the case of the Executive when it is dealing with the functions of the Council as education authority, the Members appointed because they are persons interested in the promotion of Religious Education will be treated as voting Members. For the avoidance of doubt the Teacher Representatives are not to be treated as voting members.
- 21.3 In the case of the Audit Committee the persons appointed who are not Councillors will be treated as voting Members.

CS22. ATTENDANCE OF COUNCILLORS AT COMMITTEES ETC

- 22.1 Any Councillor may be present at a meeting of a Committee or Sub-Committee of which the Councillor is not a Member. The Councillor is not entitled to take part in the discussions generally but is allowed to speak and vote on any particular issue affecting the Members' Ward which is delegated to the Committee or sub-committee, provided written notification is given to the Director of Corporate Services and received by him/her not later than 24 hours prior to the time at which the meeting is scheduled to commence. The Chairman will decide whether, in the circumstances of any matter, the provisions of this Standing Order will apply to the Member who has given notice, and the Chairman's ruling, which will be given as soon as possible after the start of the meeting, will be final.
- 22.2 A Councillor cannot speak and vote in terms of the provisions at 22.1 above at a meeting of the Planning, Protective Services and Licensing Committee when it is considering an application for planning permission, nor in similar circumstances when a Local Review Panel is considering an appeal in respect of an application for planning permission.

22.3 Notwithstanding the provisions of paragraph 22.1 a Councillor cannot be present at a meeting of a Committee or Sub-Committee of which she/he is not a Member when:-

- The public have been excluded from the meeting; and
- The meeting is considering a matter where the decision may affect the interests of any person as an individual; and
- The decision is made after a hearing by the Committee or Sub-Committee where the person has a right in terms of any law, Standing Order or administrative procedure, to be heard in person or by a representative

22.4 If a Committee or Sub-Committee has a hearing:-

- On a matter where the decision may affect the interests or rights of any person as an individual; and
- Where the person has a right in terms of any law, Standing Order or administrative procedure, to be heard in person or by a representative;

Members of the Committee or Sub-Committee may only take part in or vote on the matter if they have attended the entire proceedings of the hearing.

OTHER MATTERS

CS25 INTERESTS OF MEMBERS IN CONTRACTS OR OTHER MATTERS

23.1 The Ethical Standards in Public Life etc. (Scotland) Act 2000, together with the Code of Conduct for Councillors and the Dispensation Note to Local Authorities make it a requirement for Members, in relevant circumstances, to declare an interest.

23.2 A Member will give a notice of all registerable interests, financial or non financial, to the Director of Corporate Services.

23.3 The Director of Corporate Services will maintain a Register of Declarations of Interests made by Members. An Elector for the Council's area may look at the register.

- 23.4 The Code of Conduct issued by the Standards Commission for Scotland, under the Ethical Standards in Public Life etc (Scotland) Act 2000 makes provisions about how Members should conduct themselves as Councillors. The Code applies to Members of the Council. Any other persons, who are not members, who may be appointed or co-opted to any Committee or Sub-Committee or Policy and Performance Group will, as a condition of appointment, require to accept the provisions of the Code and agree to be bound by its terms and in regard to any breach, or alleged breach, of the Code be subject to investigation by the Monitoring Officer, in accordance with the Council's Public Interest Disclosure Policy and otherwise as the Monitoring Officer in his statutory power may determine.
- 23.5 If a Member has a financial or non financial interest which is required to be declared in terms of the Code of Conduct, and is present at a meeting where the relevant matter is being considered, she/he must disclose the fact at the beginning of the meeting or as soon as the interest becomes apparent to her/him.
- 23.6 When a Member declares an interest they must specify whether that interest is declared as a financial or non-financial interest in terms of The Code of Conduct. If the matter is a financial interest then before discussion takes place on the matter in which the Member has declared an interest, the Member will leave the room in which the meeting is taking place. If the matter is a non financial interest then, where in the particular circumstances, and having regard to all the relevant facts, the Member considers that a member of the public acting reasonably would consider that the Member might be influenced by the interest in the Member's role as a councillor then before discussion takes place on the matter in which the Member has declared an interest, the Member will leave the room in which the meeting is taking place.
- 23.7 In regard to the Register of Interests maintained by the Director of Corporate Services, the Director will incorporate into that register disclosures relating to financial or non-financial interests declared at any meeting from time to time.

24.

DISCLOSING INFORMATION

- 24.1 Information whether contained in a document or otherwise which is confidential information within the meaning of the relevant law will not be disclosed to any person. (The relevant law in this case is Section 50A(2) of the Local Government (Scotland) Act 1973) unless required to do so under the Freedom of Information (Scotland) Act 2002.

29. CONTRACT STANDING ORDERS AND FINANCIAL REGULATIONS

- 29.1 The Council will make Contract Standing Orders and Financial and Security Regulations for the regulation of contracts and for the proper planning and control of its financial and related affairs.
- 29.2 Contract Standing Orders and Financial and Security Regulations will form part of the Constitution and Standing Order 25.2 will apply to any alteration of them as it applies to these Standing Orders.
- 29.3 Contract Standing Orders and Financial and Security Regulations will apply to Committees, Sub-Committees, Groups, Members of the Council, Officers and Agents of the Council as appropriate.



ARGYLL AND BUTE COUNCIL

CONSTITUTION

PART C

SCHEME OF ADMINISTRATION AND DELEGATIONS

ARGYLL AND BUTE COUNCIL

SCHEME OF ADMINISTRATION AND DELEGATIONS

Page

Introduction
	<u>Section 1</u>
A. Appointment of Committees
B. Constitution of Committees
C. General Provisions Regulating All Standing Committees and Sub-Committees of the Council
D. Administration of Delegated and Referred Functions
	<u>Section 2</u>
Terms of Reference and Delegation to Committees
<u>Section 3</u>	
Area Committees
<u>Section 4</u>	
Delegations to Officers
Specific Delegations to Officials

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 nature of the issues involved. An important element in the practical implementation of this principle is an effective Scheme of Delegations encompassing all major levels of decision making below that of the Council itself.

The delegations in this Scheme are made having regard to the terms of Section 56 of the Local Government (Scotland) Act 1973, and are subject to any alterations made necessary by the introduction of new, or amendments to existing, legislation, regulations, or codes of practice as through decisions of the Council itself.

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) the Executive.
- (2) 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
- (3) Planning, Protective Services and Licensing Committee
- (4) The following Policy and Performance Groups –
 - (a) Economy
 - (b) Environment
 - (c) Social Affairs
 - (d) Organisational Development
- (5) Audit Committee
- (6) 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 POLICY DEVELOPMENT GROUPS

1.2.1 A Policy Development Group may be appointed from time to time by the Council, or by the Executive 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).
- (c) Bute and Cowal: comprising EW 6 (Cowal); EW7 (Dunoon); EW 8 (Isle of Bute).
- (d) Helensburgh and Lomond: comprising EW 9 (Lomond North); EW10 (Helensburgh Central); EW11 (Helensburgh and Lomond South).

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

(1) Executive

(a) Sixteen Members, being 12 Members from the Coalition Groups, including the Leader as Chair and the Deputy Leader as Vice Chair, and 4 other Members, in the composition of which regard will be had to the four decentralised areas of Argyll and Bute; and

(b) When the Committee is considering any of the functions of the Council as education authority, also –

(i) Three persons interested in the promotion of religious education.

(ii) Two non-voting teachers elected by teaching staff employed in local authority schools in the Council's area.

(2) Mid Argyll, Kintyre and Islay Area Committee

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

(3) Oban, Lorn and the Isles Area Committee

Eight members being the members representing the electoral wards within the area defined at paragraph 1.3.1(b)

(4) Bute and Cowal Area Committee

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

(5) Helensburgh and Lomond Area Committee

Ten members being the members representing the electoral wards within the area defined at paragraph 1.3.1(d)

(6) Planning, Protective Services and Licensing Committee

Fifteen members

(7) Policy and Performance Groups

Up to nine Members, in the selection of whom the Council will have regard to function, geography, and the skills and interests of Members, but will not appoint a Spokesperson to be a member of a PPG.

(8) Audit Committee

Five members, none of whom shall be a Spokesperson or a Member of the Executive.

Two Members who are not Councillors, and who will be respectively Chair and Vice-Chair of the Committee.

(9) Appeals Committees

(a) *Staffing Appeals*

Five Members

(b) *Placing Appeals – Special Educational Needs*

Two Members plus one person from a Parent Council of another school

(c) *Education Appeals and Bursaries*

Three Members

(d) *Social Work Complaints Review*

Three Members drawn from a list of independent members who are not Councillors

(e) *Access to Personal Files Review*

Three Members

Notwithstanding any other provision in this Scheme the Members to be appointed on any occasion will be so appointed by the Director of Corporate Services from a cohort of 15 members appointed by the Council, and in so appointing those Members the Director will select them by lot.

1.4 GENERAL PROVISIONS REGULATING MEMBERSHIP, ETC

- 1.4.1 The general role, duties and obligations of a Member are set out in Appendix 1 of Part A of the Constitution.

Executive Positions

- 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) Spokesperson
 - (d) Chair of the Planning, Protective Services and Licensing Committee
 - (e) Chair of an Area Committee
 - (f) Member of the Executive
- (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.
- (3) Subject to the provisions of the next following sub-paragraph, so long as s/he remains a Member of the Council, a Member appointed to an executive position will hold such office, until the next ordinary election of Councillors.
- (4) A Member appointed to an executive position may be removed from such office at any time by resolution of the Council, provided the agenda for the meeting contains notice to that effect or an item of business is included on the agenda for the meeting arising out of the consideration of which the removal of a member from an executive position might reasonably be apprehended.

Memberships and Period of Office

- 1.4.3 (1) Except where otherwise provided by any enactment or statutory order, or otherwise by this Scheme, the Members of a body of Members specified in this Scheme will be so appointed at the first meeting of Council following each ordinary election of Councillors.
- (2) Subject to the provisions of this Scheme, in appointing members to the bodies specified in this Scheme the Council will, where the Members of the Council are divided into different political groups, have regard to the distribution of Members amongst these groups.
- (3) Subject to the foregoing, so long as they remain Members of the Council the members of a body specified in this Scheme or any other body set up under it shall hold office, unless otherwise determined by the Council at any time, until the next ordinary election of Councillors, except in the case of the Members of the Executive where the provisions of paragraph 1.4.2(4) will apply.

- (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, unless otherwise determined by the Council at any time, until the next ordinary election of Councillors.

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 or the Executive 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.

1.6.2 Where an Area Committee refers (with or without recommendation) any matter for consideration at a meeting of the Council or the Executive, the matter will, subject to the following provisions, normally be included on the agenda for the next ordinary meeting;

1. Provided that the next ordinary meeting referred to is not less than 21 days after the date of the meeting of the Area Committee making such referral; unless the Provost (in regard to a referral to the Council) or the Chair (in regard to a referral to the Executive) agrees to dispense with the said period.
2. Where the matter relates to the annual process of developing the Council's Corporate and Service plans, estimates of Revenue expenditure or Capital programme the matter will be referred to the appropriate meeting of the Council or Executive dealing with that process; unless the Provost (in regard to the Council) or the Chair (in regard to the Executive) agrees to the matter being considered at an earlier stage.
3. Where the matter relates to the development of any strategy or policy that is already the subject of ongoing consideration by the Council or the Executive the matter will be referred to the appropriate meeting dealing with such strategy or policy.

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 thereunder, 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 Executive 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.

Exclusions from Delegations

- 2.1.3 The following are excluded from the delegation to any body established in terms of this scheme:-
- (1) Determining the overall Goals, Values and Policy Framework Documents as referred to in Part A, Part I paragraph 3(1) of the Constitution or matters of new policy/strategy or variation of existing policy/strategy which may be inconsistent with those Goals, Values or Policy Framework Documents.
- (2) The approval of any plan which is part of the Policy Framework and any other plan which introduces new policies of major significance or varies existing plans or policies to a material extent.
- (3) The approval of plans which are part of the Council's Planning and Performance Management Framework; and the Estimates of Revenue and Capital Expenditure.

- (4) The power to fix the Council Tax, and the levels of charges for any services.
- (5) The power of incurring any expenditure not provided for in the Annual Estimates of Revenue and Capital expenditure.
- (6) The appointment to a body established in terms of this scheme of a person who is not a Member of the Council, without the prior approval of the Council or the Executive.
- (7) Matters reserved to the Council by Statute, Standing Orders and other schemes approved by the Council from time to time.
- (8) All proposals for the promotion of or opposition to private legislation.
- (9) The making, alteration or revocation of any part of the Council's Constitution.
- (10) The determination of planning applications which in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 are (1) National and the undertaking of Pre-Determination Hearings in respect of all national applications; (2) Major Developments and the undertaking of pre-determination Hearings where in the case of the latter there would be a significant departure from the development plan, were the application to be approved.
- (11) Admission of honorary free men.
- (12) The appointment of Members to Statutory Joint Boards or to the Licensing Board.
- (13) The dismissal of the Chief Executive.

Limitations on Delegations

- 2.1.4 Delegations to a body established in terms of this scheme will be subject to the following restrictions and conditions:-
- (i) A body will, in carrying out the functions, powers and duties referred to or delegated to it, observe and comply with this Scheme, the Standing Orders of the Council, the Financial and Security Regulations, and the Contract Standing Orders, and with any resolutions, directions, or instructions given by the Council with reference to its business generally or to the delegations to any particular body.
 - (ii) A body may, in any case, decide that any matter delegated to it be referred to the Council with or without a recommendation.

- (iii) Where a function of the Council is delegated, any delegation of that function by one body to a subordinate body will be subject to the approval of the Council and a specific delegation so approved will supersede a previous delegation; provided that a the Executive, the Planning Protective Services and Licensing Committee, or an Area Committee may, without the approval of the Council, delegate to a Sub-Committee of not less than three of their number any routine matter of business or, for final adjustment and settlement, any other matter falling within the delegation to any of these bodies if such matter has been approved generally by the body; or for the purpose of holding a hearing which may be required arising out of any statute, regulation or administrative procedure of the Council.
- (iv) A body established in terms of this scheme will have the powers and duties set out in the Terms of Reference in respect of that body save that any function which is referred or delegated to any body will be exercised subject to the powers and functions vested in the Executive.

Area Committees

2.1.5 The delegations to an Area Committee will be subject also to the following:-

- (1) A matter on which an Area Committee discharges any power or duty is one which has application only within the Council's sub-area for which that Committee has responsibility.
- (2) The exclusions and limitations on delegations set out in paragraphs 2.1.3 and 2.1.4 of this Scheme and in addition:-
 - (a) A matter having common application in more than one sub-area of the Council's area.
 - (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 the Council.

- (3) The powers and duties of an Area Committee will be exercised subject to the powers and duties of the Executive and any resolution of an Area Committee will be of no effect in the event that the Executive directs that the matter which was the subject of the resolution is referred to it or to the Council for consideration, and no step will be taken to give effect to any such resolution of an Area Committee while the implementation of the resolution is suspended in consequence of such a direction.
- (4) The requirement that any decision taken by an Area Committee regarding the disposal, by sale, or by lease for a period of three or more years of surplus property at less than market value is subject to the approval of the Executive.

2.2 Executive

2.2.1 Subject to the exclusions from and limitations of delegations set out in paragraph 2.1.3 and 2.1.4, the Executive is authorised to discharge all the powers and duties of the Council under any enactment.

2.2.2 Without prejudice to the foregoing generality the Executive will:-

- (1) advise the Council in the development of its strategic objectives, policies and priorities
- (2) review the overall effectiveness of the Council's work and the standards and levels of service
- (3) ensure the Council discharges its functions relating to Best Value
- (4) co-ordinate with partner organisations in relation to Community Planning and other similar issues and initiatives of a corporate nature
- (5) secure the co-ordination, control and proper management of the financial affairs of the Council
- (6) undertake the planning, preparation, and control of the Council's budget estimates of capital and revenue expenditure and make recommendations to the Council as to:-
 - (a) the estimates of capital and revenue expenditure
 - (b) the level of Council Tax
 - (c) charges for council services
- (7) appoint a panel to make appointments, on behalf of the Council, to the positions of Chief Executive, Directors and Heads of Service.

- (8) for the avoidance of doubt, discharge the powers and duties of the Council as education authority, and in relation to those functions, the dismissal of a teacher whose contract of employment incorporates the Strathclyde Regional Council Conditions of Service for Teachers in Day Schools.

2.3 Area Committees

- 2.3.1 (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 set out in this paragraph in respect of matters which have application only within the sub-area for which that Committee has responsibility.
- (2) To develop and maintain Area Plans within the Council's Planning and Performance Management Framework (PPMF) and Corporate Plan framework outcomes.
- (3) To monitor and review achievement of key outcomes identified in the Area Plan and in the local delivery of key services by ensuring -
 - (a) appropriate performance measures are in place, and to monitor the relevant PPMF scorecard
 - (b) best value in the use of resources to achieve these key outcomes is met within a performance culture of continuous improvement and customer focus.
- (4) To approve expenditure as follows:-
 - (a) revenue or capital expenditure within any allocation and criteria delegated to an Area Committee by the Council or the Executive
 - (b) in response to applications for financial assistance within any framework and criteria approved by the Council or the Executive
- (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 or the Executive 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.

- (7) To lead the Council's participation in the Local Area Community Planning Partnership Group
- (8) To give effect to the Community Engagement Strategy at a local level
- (9) The regulatory functions of the Council under the Road Traffic Regulation Act 1984 and Roads (Scotland) Act 1984 including to introduce, make, review, amend or revoke any order, or give any direction or notice for application only within the sub-area for which the Committee has responsibility
- (10) To play a lead local role in the formation of the Local Development Plan (LDP), within any framework and criteria approved by the Council or the Executive from time to time.
- (11) To undertake pre application consultations in respect of relevant designated applications for planning permission, within any framework and criteria approved by the Council or the Executive from time to time.

2.4 Planning, Protective Services and Licensing Committee

- 2.4.1 Subject to the provisions of this Scheme and what is set out below, the Committee is authorised to discharge the powers and duties of the Council in relation to any of the undernoted regulatory and similar functions of the Council.
- 2.4.2 The Committee is authorised in respect of the functions referred to paragraph 2.4.3 and 2.4.2 below:-
 - (a) to introduce, make, review, amend or revoke any order, rules or bye-law or give any direction or notice.
 - (b) to determine any application for any permission or licence (including the holding of any hearing which may be required arising from any statute, statutory regulation or administrative procedure of the Council) and the enforcement of the relevant legislation in respect of the Council's functions in relation thereto.
 - (c) to take any other steps in relation to any of the functions which the Committee may consider necessary or desirable.
- 2.4.3 Functions referred to in 2.4.2 above are -

- (a) To determine major developments as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 where approval of the application, would not in the opinion of the Director of Development Services be a significant departure from the Development Plan, where there has been a significant body of objections ie more than 10 individual objections on planning, policy or land use grounds.
- (b) To determine any application which requires an Area Capacity Evaluation to be undertaken as part of the policy assessment.
- (c) To determine applications for planning permission defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 as “local developments”, which are not otherwise delegated to the Director of Development Services ie (1) where there has been a significant body of objections ie more than 10 individual objections on planning, policy or land use grounds, (2) or where the application is one which is required by legislation or regulation to be determined by the 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 Director of Development 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.

2.4.4 Functions referred to in 2.4.2 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

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

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

2.4.7 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.

2.5 Policy and Performance Groups

The terms of reference of the Policy and Performance Groups are –

2.5.1 To monitor and review achievement of key outcomes in the Corporate Plan within the thematic areas noted in paragraphs 2.5.2, 2.5.3, and 2.5.4 below by ensuring –

- (a) appropriate performance measures are in place, and to monitor the relevant PPMF scorecard
- (b) best value in the use of resources to achieve these key outcomes is met within a performance culture of continuous improvement and customer focus
- (c) and encouraging effective collaboration and coordination between and within organisations operating in Argyll and Bute

2.5.2 Social Affairs Policy and Performance Group

The relevant thematic provisions relate to health, housing and local area regeneration, poverty, voluntary sector issues, school and pre-school education, young people and lifelong learning, social work services, and matters relating to culture and sport.

To lead the Council's participation in the Community Planning Partnership Thematic Group on Social Affairs.

2.5.3 Economy Policy and Performance Group

The relevant thematic provisions relate to the economy, business and industry, vocational training, tourism and matters relating to transport and transportation, and matters relating to the strategic regeneration of the Council area.

To lead the Council's participation in the Community Planning Partnership Thematic Group on the Economy.

2.5.4 Environment Policy and Performance Group

The relevant thematic provisions relate to the environment and sustainable development, natural heritage, the land use planning system and building standards, environmental and protective services, energy agriculture, forestry and fisheries.

To lead the Council's participation in the Community Planning Partnership Thematic Group on the Environment.

2.5.5 Organisational Development Policy and Performance Group

To monitor and review achievement of key outcomes in the Corporate Plan and the Improvement Plan relating to the development of the Council as an improving organisation.

2.6 Audit Committee

To promote good internal control, financial management, risk, governance and performance management, in order to provide reasonable assurance of effective and efficient operation, and compliance with laws and regulations, including the Council's Financial and Security Regulations, Contract Standing Orders and accounting codes of practice.

Specific terms of reference are –

2.6.1 Audit Activity

To agree the internal audit strategic plan, oversee and review action taken on internal audit recommendations;

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 External Audit reports;

To comment on the scope and depth of External Audit work and to ensure it gives value for money;

To commission work from Internal and External Audit;

To consider the performance of Internal and External Audit;

To facilitate training to support the role of Audit Committee Members;

To develop an anti-fraud culture within the Council to ensure the highest standards of probity and public accountability;

To promote good financial practice within the Council;

To be consulted on the External Audit strategy and plan, review reports from the Council's External Advisors and review action on External Audit recommendations; and

To review the Council's financial performance as contained in the Annual Report, and to report annually to the Council on the internal control environment.

Regulatory Framework

To maintain an overview of the Council's Constitution in respect of contract procedure rules, and financial regulations;

To monitor the effective development and operation of risk management and corporate governance in the Council;

To monitor the Anti fraud and corruption strategy and the Council's arrangements for dealing with any allegations of fraud or similar improper behaviour;

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

To consider the Council's compliance with its own and other published standards and controls.

Accounts

To examine the activities and accounts of the Council and exercise a governance role over management efforts to ensure that-

- the expenditure approved by the Council has been incurred for the purposes intended;
- services are being provided efficiently and effectively;
- value for money is being obtained, all in accordance with Best Value requirements; and
- the Council/Executive has appropriate information and advice available to them to make decisions.

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; and

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

To promote good performance management practice within the Council;

To assess the effectiveness 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 agencies;

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 outcomes;

To comment on proposals for developing a performance management framework, systems and processes; and

To review the impact of national performance reports from external bodies such as Audit Scotland and consider their impact on future audit plans for performance work to be undertaken by both external and internal audit.

2.7 Appeals Committees

2.7.1 Staffing Appeals

The hearing and determination of appeals by employees in terms of the Council's approved grievance and disciplinary procedures.

2.7.2 Placing Appeals/Special Educational Needs

The hearing and determination of appeals against the refusals of placing requests in terms of Section 28A-H of the Education (Scotland) Act 1980, and appeals in terms of Sections 63 to 65 of the 1980 Act and Paragraph 5 of Education{Additional Support for Learning}{Scotland} Act 2004 in relation to special educational needs.

2.7.3 Education Appeals and Bursaries

The hearing and determination of appeals relating to further education and higher school bursaries, under Section 49 of the 1980 Act and the access to or amendment of pupil or student records.

2.7.4 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.

2.7.5 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 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 Officials

- 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 the Council's Constitution;
 - (4) Officers will have the right to consult with the Chief Executive on any matter, even though it has been specifically delegated to that Officer, or to refer the matter to an appropriate body of Members established in terms of this Scheme;
 - (5) Officers will consult the Chief Executive or any relevant Director where appropriate to do so on issues of a corporate nature or which may have a significant impact on the Council or other Services or on issues which are sensitive or complex;
 - (6) Officers will consult the Leader or Spokesperson or Chair of the appropriate Committee on issues which are sensitive or complex, or otherwise where consultation appears to be appropriate.
 - (7) Officers will consult Ward Councillors where a proposed decision or action is likely to affect significantly the constituency interests of those Councillors.
- 3.1.2 Officers will ensure that they make suitable arrangements to record decisions taken and actions authorised in relation to the discharge of any functions powers and duties delegated to them, and will submit such reports as may be required from time to time.
- 3.1.3 Where an applicant for a service provided by the Council is a Councillor or an employee, the Officer within whose delegated authority it is to determine the application will, before exercising that authority, give consideration to the need to consult with the Chief Executive who

may if she/he considers it appropriate require the Officer to refer the application to the appropriate Committee for determination.

- 3.1.4 Where an applicant for employment with the Council is related to a Councillor, or to a Chief Officer of the Council, the Officer within whose delegated authority it is to make the appointment to the post in question will, before exercising that authority, consult with the Chief Executive who may if she/he considers it appropriate require the Officer to refer the appointment to her/him for decision.
- 3.1.5 Where an applicant for employment with the Council is related to an employee of the Council the Officer within whose delegated authority it is to make the appointment to the post in question will, before exercising that authority, consult with their Director who may if she/he considers it appropriate require the Officer to refer the appointment to her/him for decision. In the case of an appointment by a Director they should refer the matter to the Chief Executive.

3.2 General Delegations to Officials

The Chief Executive and 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, 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 Spokesperson, 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 Executive 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 Director is authorised, in terms of arrangements made from time to time by the Chief Executive, to exercise the functions of the Chief Executive in her/his absence.
- 3.2.12 Each Director, in respect of premises for which he/she has responsibility, is authorised to permit voluntary groups or others offering to execute on an ex gratia basis construction or improvement works within the curtilage of those premises subject to -
- (a) she/he being satisfied as to the nature, extent and timetable of the works
 - (b) Public Liability/Employers Liability/Professional Indemnity Insurance for appropriate levels to the satisfaction of the Director of Corporate Services.
 - (c) the specification of the nature and extent of works, methodology, health and safety assessment, and qualifications/experience of those undertaking the works to the satisfaction of the Director of Operational Services who will also assess the level of supervision and monitoring of the works which may be required.

3 Specific Delegations to Officers

(A) CHIEF EXECUTIVE

The Chief Executive's powers and duties enable her/him to carry out the following functions, and without prejudice to all statutory duties, responsibilities and powers exercisable by her/him, authorise her/him to exercise the following –

- 1 The Chief Executive is Head of the Council's paid service in terms of Section 4 of the Local Government and Housing Act 1989.
- 2 The Chief Executive is principal advisor to the Council on all matters of policy and strategic direction and is responsible for the implementation of Council aims and priorities, including leading the delivery of Best Value 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 that the Council's policies and priorities are delivered in an efficient and effective manner.
- 4 To give a direction on the applicability of the Scheme of Delegations to an officer in any specific case, and power in special cases to direct that any official shall not exercise a delegated function except where –
 - (a) the officer concerned is exercising a statutory responsibility, or
 - (b) the officer concerned is exercising professional discretion or judgement
- 5 Power in an emergency to instruct executive action on any matter after consultation with the Leader or, in her/his absence, Depute Leader of the Council.
- 6 To determine gradings of categories of posts in implementation of review processes initiated within or out with the Council or to correct anomalies in the Council's salary structure as a consequence of review processes, within the limits of existing budgets.
- 7 To exercise the discretions available to the Council as employers in terms of the Local Government Pension Scheme after consultation with the the Leader or, in her/his absence, the Depute Leader of the Council.
- 8 Where s/he considers that it would be in the interests of the Council to do so, to authorise visits by officers of the Council and others representing the Council out with the United Kingdom.

- 9 To designate (a) suitably qualified officer(s) to act as Trustees of the Group Life Assurance Scheme
- 10 To act as, or appoint a suitably qualified person to be, the “proper officer” for the purposes of Sections 34 of the Local Government (Scotland) Act 1973.
- 11 To authorise, in appropriate circumstances, reports to the Procurator Fiscal or Police on matters not otherwise covered within the Council’s regulatory frameworks.

(B) DIRECTOR OF CORPORATE SERVICES

The Director of Corporate 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 act as Returning Officer in respect of European, Parliamentary and Local Authority elections and to discharge the functions in Section 18 of and act as “proper officer” in terms of Section 82 of the Representation of the People Act 1983 (as amended)
5. To secure the provision of the electoral registration functions of the Council.
6. 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.
7. 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.

8. To act as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989;
9. To act as or to designate a suitably qualified officer to act as Clerk to the District Court in terms of Section 7 of the District Courts (Scotland) Act 1975 as amended;
10. To act as or to designate a suitably qualified officer to act as Clerk to the Licensing Board(s) in terms of the Licensing (Scotland) Acts 1976 and 2005;
11. 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;
12. 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;
13. 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;
14. To arrange for the Council to be represented in relation to any type of judicial and quasi judicial proceedings before any Court, Tribunal or other body and in that regard to initiate, enter, defend and withdraw from such proceedings;
15. To settle without reference, claims arising in terms of the Land Compensation (Scotland) Act 1973, in respect of Home Loss Payments following compulsory acquisitions and also to settle any discretionary payments arising from acquisitions by voluntary agreement, provided that the statutory requirements have been met.;
16. To settle, without reference, up to a maximum of £100,000, any claims against the Council which involves or is likely to involve action against the Council in any Court or statutory tribunal;
17. To authorise payments to account to sellers of property to the Council in cases where negotiations are protracted for

- any reason, up to a value of 90% of the valuation;
18. To authorise payments to account to sellers of property to the Council in cases where conveyancing procedures are protracted for any reason subject to the exhibition of a good title and the grant of appropriate undertakings;
 19. To terminate on behalf of the Council any contract which the Council is entitled to terminate under the appropriate conditions of contract where, after consultation with the appropriate Director, she/he is satisfied that it is in the interest of the Council to do so;
 20. In respect of Insurance-
 - (i) to take out the necessary insurances to protect the interests of the Council;
 - (ii) to make arrangements with insurance companies concerning settlement of claims;
 - (iii) in respect of claims not settled by or on behalf of the Council to settle up to a maximum of £100,000
 21. To consider and determine, where unopposed, applications for licences under the Gambling Act 2005;
 22. To consider and determine, where unopposed, applications under Parts I, II and III of the Civic Government (Scotland) Act 1982; and to keep under review, where appropriate, the levels of fees charged for particular licences, and the level of taxi fares throughout the area of the Council;
 23. To carry out of prosecutions under Section 43(2) of the Education (Scotland) Act 1980, where he/she considers it appropriate;
 24. To determine applications for House Loans and other financial assistance under Part XII of the Housing (Scotland) Act 1987 after consultation with the Director of Community Services and the Head of Strategic Finance.
 25. To determine applications for Houses in Multiple Occupation in terms of the mandatory scheme under the Civic Government (Scotland) Act 1982.
 26. To determine applications for licences and registrations under the Petroleum Acts, the Explosives Act, the Poisons Act and similar legislation;
 27. To determine applications for licences in respect of animal boarding and horse riding establishments, the keeping of dangerous wild animals, the operation of pet shops and

- zoos, and the breeding of dogs;
28. To determine applications for licences under the Cinematograph Act 1909 and the Theatres Act 1963, where unopposed;
 29. To grant authorisation in terms of the Water (Scotland) Act 1980 relating to private water supplies;
 30. To act as or appoint a suitably qualified officer to act as Access Officer, Home Safety Officer, Animal Welfare Officer and Chief Inspector of Weights and Measures;
 31. To act as the proper officer for the Statutory Functions and obligations of the Council under all current, relevant legislation relating to Environmental Health, Animal Welfare, Trading Standards, Fire Precautions, 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.
 32. To exercise or to designate a suitably qualified officer to exercise the powers and duties of the Council and of an Inspector and authorised Officer (including powers of entry, inspection, sampling, seizure of goods and services, opening containers, seizure and initiating prosecutions, where appropriate) under any relevant legislation;
 33. To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
 34. 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;
 35. 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.

36. Enter into arrangements with the Water Authority in relation to the collection of water and sewerage charges.
37. 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;
38. 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.
39. To exercise the Council's powers to initiate sequestration proceedings.
40. To provide a valuation and estates service in respect of the valuation and management of heritable property.
41. 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.
42. To determine applications for licences in respect of caravan sites;
43. 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.
44. 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.
45. To exercise or to designate a suitably qualified officer to exercise the powers and duties of the Council and of an Inspector and authorised Officer (including powers of entry, inspection, sampling, seizure of goods and services, opening containers, seizure and initiating prosecutions, where appropriate) under the relevant legislation.

(D) DIRECTOR OF COMMUNITY SERVICES

The Director of Community Services is authorised -

1. to determine applications for the provision of footwear and clothing for pupils at public schools, in terms of Section 54 of the Education (Scotland) Act 1980;
2. to arrange programmes of in-service training for teachers;
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. to implement rates of fees for educational establishments used by the Council outwith the Council's area;
6. to carry out the administration, assessment and award of any education bursaries or other related forms of assistance;
7. to fix the levels of any tuition fees, examination expenses, and determine rates of pay to examination invigilators;
8. to approve the participation of school pupils and supervising staff in cultural, social and recreational visits in and outwith the United Kingdom and the reception of visiting pupils and staff;
9. to approve temporary exchange visits by teaching staff in and outwith the United Kingdom;
10. to make grants to pupils to enable them to attend courses and conferences and to undertake educational visits and excursions at home and abroad;
11. to make the necessary arrangements for the boarding out of pupils and for the allocation of hostel accommodation;
12. to issue licences in terms of the Children (Performances) Regulations 1968;
13. to determine applications received from schools for arrangements to be made for visits during school terms;
14. to provide courses in educational training for outside agencies and to negotiate appropriate charges for these services;
15. to ensure that requisite provision is made for any pupil entitled

in terms of Section 53(3) of the Education (Scotland) Act 1980 to receive refreshment in the middle of the day;

16. to make grants to pupils from schools within the Council's area or normally resident within the area who are selected to join national youth orchestras or similar national music, drama or dance companies in respect of fees and attendance at courses;
17. to increase, in cases of hardship, and at his discretion, the amount of grant awarded to school pupils attending part-time courses at the Royal Scottish Academy of Music and Drama and the Scottish Ballet School up to a maximum of the cost of fees and travelling expenses;
19. to exercise the powers available to the Council as Education Authority, in terms of Section 23 of the Education (Scotland) Act 1980, with regard to the provision by the Council of education for pupils belonging to the areas of other Education Authorities and incur outwith area fees and to pay the approved COSLA rate to any other Education Authority which has provided education for pupils normally resident in the area of the Authority but who are, for various reasons, placed in Schools outwith the Authority;
20. to apply to the Ministry of Agriculture, Fisheries and Food for and to accept any allocation made to the Council from the EEC national quota of levy-free foods administered by that Ministry under the General Agreement on Tariffs and Trade;
21. to consider and determine all placing requests under Section 28 of the Education (Scotland) Act 1980 as amended by Section 43 of the Standards in Scotland's Schools Act 2000 in accordance with the guidelines formulated by the Council;
22. to accept placing requests in terms of the Education (Scotland) Act 1980 and to make whatever transport arrangements are deemed to be appropriate, in individual cases brought to his attention where supporting documentation satisfies him that the child concerned has serious physical, emotional or psychological problems;
23. in cases where the parent changes residence and in terms of the Education (Scotland) Act 1980 makes a placing request that her/his child remain in the school attended prior to that change, to accept that request provided that (1) the parent agrees to comply with the Council's policy on transport arrangements and costs, and (2) in all the circumstances the Director considers it is appropriate to accept the request;
24. to exercise, at his discretion, the powers available to the

Council as Education Authority in relation to the exclusion of pupils from schools;

25. where not otherwise determined by a Parent Council, to determine the dates of occasional local school holidays after consultation with any appropriate Parent Council;
26. to accept and administer any Educational Trusts or small endowments which may be offered to the Council for schools in its area;
27. to carry out the functions of the Council in terms of Section 58 of the Education (Scotland) Act 1980 relating to the cleanliness of pupils at schools;
28. to exercise the functions of the Council in terms of Section 50 of the Education (Scotland) Act 1980 and Section 35 of Children (Scotland) Act 1995, (provision of travelling facilities and accommodation in exceptional circumstances);
29. where a teacher is compulsorily transferred to authorise payment of the cost of removal expenses in terms of the Council's Scheme or, where appropriate, reasonable daily travel expenses subject to the relevant provisions of the Conditions of Service for teachers in Day Schools;
30. to carry out the education functions of the Council under Part X of and Schedule 9 to the Children Act 1989;
31. to determine requests for access to and amendment of records in terms of the School Pupils Records (Scotland) Regulations 1990;
32. to exercise the functions of the Education Authority in relation to the irregular attendance of pupils at schools under their management all in terms of Sections 36-41 of the Education (Scotland) Act 1980 after consultation with the appropriate Local Attendance Council;
33. to approve attendance by Community Learning and Development employees on authorised Youth Exchange visits overseas where the employees, as part of their duties, are required to accompany the group undertaking the exchange;
34. to authorise Head Teachers in Schools to approve appointments, where considered necessary and where budgetary provision exists, of temporary non-teaching staff in schools.
35. To determine school staffing levels within the limits of resources provided by the Council.

36. To authorise the use of budgetary resources in conjunction with partner organisations in the pursuit of agreed corporate policies.
37. To authorise the distribution of the educational hypothetical resources received from the Scottish Government within the policies determined for this purpose by the Council.
38. To secure the right of every child of school age to be provided with school education by, or by virtue of arrangements made, or entered into on behalf of the education authority.
39. To secure improvement in the quality of school education with a view to raising standards of education.
40. To prepare the annual statement of education improvement objectives.
41. To authorise Head Teachers to prepare an annual school plan which will identify the principal achievement targets to be sought in the following academic year and a report on the implementation of the plan as defined in the Standards in Scotland's Schools etc. Act 2000.
42. 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.
43. 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.
44. To manage the Council's Library and Museums Services;
45. To manage and factor houses provided by the Council on the Education Account
46. To determine and issue approvals for improvement, repairs and standard amenity and environmental grants;
47. 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;
49. 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;
50. 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;

51. To be responsible for implementation of the provisions of Part IV of the Housing (Scotland) Act 1987 relating to sub-standard houses;
52. To be responsible for implementation of the provision of Part V of the Housing (Scotland) Act 1987 relating to repairs of houses;
53. To be responsible for implementation of the provision of Part VI of the Housing (Scotland) Act 1987 relating to Closing and Demolition Orders;
54. To be responsible for implementation of Part VII of the Housing (Scotland) Act 1987 relating to overcrowding.
55. 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.
56. To carry out the Council's functions under the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 and subsequent legislation.
57. To act as or designate a suitably qualified officer to act as Chief Social Work Officer in terms of Section 3 of the Social Work (Scotland) Act 1968 for the purposes of the Council's functions under the Social Work (Scotland) Act 1968 and the enactments in Section 5(1B) of the same Act, and the Childrens (Scotland) Act 1995 including and in addition where not otherwise included -
 - i Section 12 under which the Council is required to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for its area. The delegation in terms of this Section shall include authority:
 - (a) to make loans or grants to any person or family in accordance with any policy approved by the Council;
 - (b) to give any other appropriate assistance, including provision for the storage of furniture in cases of emergency;
 - ii Section 13 under which the Council may assist in the

disposal of produce of work undertaken by persons in need;

- iii Section 14 under which the Council is required to provide home help and laundry facilities for persons in need, etc. subject to the recovery by the Director on the appropriate scale as may be determined by the Council; but subject also to the Director being empowered to abate or waive home help charges to avoid hardship according to the person and financial circumstances of the client in accordance with policies approved by the Council.
- iv Section 15 which imposes on the Council a duty to receive and keep in care in certain circumstances any child in need.
- v Section 16(1)(l) which authorises the assumption of parental rights by the Council in any case where the parents of a child are dead and she/he has no guardian;
- vi To ensure that in terms of Section 20, in reaching any decision relating to a child in the care of the Council, first consideration is given to the need to safeguard and promote the welfare of the child throughout her/his childhood and, so far as is practicable, the wishes and feelings of the child regarding the decision are ascertained and given due consideration, having regard to her/his age and understanding;
- vii Section 21 which imposes on the Council a duty to provide accommodation and maintenance for a child in care by boarding her/him out or maintaining her/him in a residential establishment;
- viii Section 22 which empowers the Council to remove any child from a residential establishment;
- ix Section 24 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 26 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 approved by the Council.
- xi Section 28 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 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 44(5) which requires the Council to give effect to a supervision requirement made by a Children's Hearing for its area;
- xiv Section 47(1) which requires the Council to seek review by a Children's Hearing of a supervision requirement in certain circumstances;
- xv Section 47(2) which requires the Council to refer cases involving a supervision requirement to the Reporter within 3 months of the child's 18th birthday;
- xvi Section 48(2) which requires a supervision requirement to be reviewed by a Children's Hearing where the Council so recommends;
- xvii Section 65(1) which empowers or requires the Council in certain circumstances to remove any person from certain residential or other establishments;
- xviii Section 68 which requires the Council to make arrangements for periodic visits to persons in establishments in the Council's area, in the interests of the well-being of those persons;

- xix To carry out the functions of the Council under the War Charities Act 1940 and under Section 41 of the National Assistance Act 1948 in relation to the registration of charities, including charities for disabled persons on the grounds that its objects are already adequately covered by a registered charity;
- xx 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;
- xxi 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;
- xxii To appoint Mental Health Officers in terms of the Mental Health (Scotland) Act 1984; and
- xxiii 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;
- xxiv To carry out the functions of the Council in relation to the Adoption of Children in terms of the Adoption (Scotland) Act 1978 and the Children's Acts 1975 to 1995;
- xxv To carry out the functions of the Council as Care Authority under the Fostering of Children (Scotland) Regulations 1985;
- xxvi To determine assistance with legal fees (in consultation with the Director of Corporate Services) and medical expenses in relation to adoptions;
- xxvii To approve new registrations of establishments and to grant variations of existing registrations, all under Section 62 of the Social Work (Scotland) Act 1968;
- xxvii 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;
- xxix To determine fees for curators ad litem, foster parents and community carers in accordance with Council policies;

- xxx 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.
 - xxxi 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.
 - xxxii To authorise the Director of Community Services to make direct payments in terms of the Community Care (Direct Payments) Act 1996 and the Community Care & Health (Scotland) Bill once it becomes law to service users who meet the eligibility criteria to purchase their own services.
58. To designate the Chief Social Work Officer to act as the proper Officer 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 Guardianship Act 1963 and the Adults With Incapacity (Scotland) Act 2000
 - vii Sections 23, 24, 297 and 329 of the Criminal Procedure (Scotland) Act 1975.
 - viii The Children Act 1975.
 - ix The Adoption Act 1976.
 - 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 (Scotland) Act 1984 and any subsequent amendment.
- xiii The Foster Children (Scotland) Act 1984.
- xiv Sections 38(b) and 235 of the Housing (Scotland) Act 1987.

(D) DIRECTOR OF DEVELOPMENT SERVICES

The Director of Development 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 where there has been a significant body of objections ie more than 10 individual objections on planning policy or land use grounds
 - 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 Committee.
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.
- P (2) To determine applications for major developments which in the opinion of the director of development 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.

- L 3. To determine applications for variation of planning consents under Section 64 of the Town and Country Planning (Scotland) Act 1997.
- L 4. In consultation with the Director of Corporate 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
- L 5. To determine certificates of lawfulness in terms of Section 150 and 151 of the Town and Country Planning (Scotland) Act 1997.
- L 6. To determine all consultative applications and assessments of a technical nature under Delegated Legislation including the power to raise objections.
- L 7. 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.
- L 8. 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 or land use grounds.
- L 9. To determine applications for Listed Building and Conservation Area consents in terms of the Planning (Listed Building and Conservation Area) Scotland Act 1997 and applications under the Town and Country Planning (Control of Advertisement) Scotland Regulations 1984, where there are no significant objections, ie 10 or less objections on planning policy or land use grounds.
- L 10. To exercise the powers to serve "Contravention Notices" in terms of Section 125 of the Town and Country Planning (Scotland) Act 1997 prior to formal enforcement action.
- L 11. To exercise the powers to take action against fly posting in terms of Section 187 of the Town and Country Planning (Scotland) Act 1997.
- L 12. To exercise the power to approve or refuse all proposed works to trees in Conservation Areas and trees protected by Tree Preservation Orders.

- L 13. To refuse applications which were the subject of Section 75 Agreements when the applicant had not concluded the Section 75 Agreement within 4 months of being notified of the requirement to do so.
- L 14. To deal with enforcement complaints where after investigation no breaches of planning control have been identified.
- L 15. Service of a Breach of Condition Notice.
- L 16. To undertake and determine screening and scoping opinions of planning applications under the Environmental Impact Assessment (Scotland) Regulations and under the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2008 .
- L 17. 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.
- L 20. In terms of Part 1 of the Land Reform (Scotland) Act 2003
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 - 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 approve or refuse applications and issue/accept completion and other related Certificates, and refuse unappealed applications under the Building (Scotland) Acts. To issue notices under the Section 28, 29, 30 of the Building Scotland Act 2003 in relation to defective and or dangerous buildings.
- 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.
- 24. 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,
- 25. To appoint as inspectors and authorised officers for the purposes of the administration and enforcement of the legislation referred to in the foregoing paragraphs, such officers as she/he may deem necessary and appropriate;
- 26. To exercise or to designate a suitably qualified officer to exercise the powers and duties of the Council and of an Inspector and authorised Officer (including powers of entry, inspection, sampling, seizure of goods and services, opening containers, seizure and initiating prosecutions, where appropriate) under the relevant legislation.
- 27. To exercise the functions of the Council under the Fire Safety and Safety of Places of Sports Act 1987, including the issue of Safety Certificates.
- 28. To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
- 29. To act jointly with the Chief Constable in the provision of road safety.
- 30. For the avoidance of doubt, that in respect of delegations to determine local applications in terms of the Town and Country Planning (Schemes of Delegation and Local

Review Procedure) (Scotland) Regulations 2008, to authorise the Director of Development Services to appoint the Head of Planning and/or such other Officers as he may determine, from time to time, to exercise the functions of the Council in making such determinations, in accordance with said regulations.

NOTE 1

The delegations marked with a (P) are ostensibly made under Section 43 of the 2006 Act, the delegations marked with an L are made under the 1973 Act, but nothing contained herein shall limit the Council's statutory authority to take such delegated action simply because of a challenge to which section of the relevant Act is referred to.

(E) DIRECTOR OF OPERATIONAL SERVICES

The Director of Operational Services is authorised –

1. 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 ensure compliance with Section 99(1) (prevention of the flow of water, filth, dirt or other offensive matter on to the road);
- (35) Under Section 99(3) in relation to the service of notices on owners or occupiers requiring works or excavations to be undertaken to ensure compliance with Section 99(1);
- (36) Under Section 140 in relation to authorising persons to enter land to take any action or execute any work authorised or required to be taken or executed by the Roads Authority under the Roads (Scotland) Act 1984;
- (37) Under Section 30 in relation to the serving of notices 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.

2. 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;
3. 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.
4. To grant wayleaves in respect of public utilities;
5. 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);
6. To carry out the functions of the Council under the Public Utilities Street Works Act 1950 and the New Roads & Street works Act 1991 in relation to roads for which the Council is responsible;
7. To exercise the functions of the Council under Section 12 of the Roads (Scotland) Act 1984 in relation to the stopping up or diversion of highways crossing or entering routes of proposed new highways;

8. 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;
9. After consultation with the Chief Constable to consider and, where acceptable in road safety terms, approve locations for advertisements on road safety barriers and similar structures;
10. To make arrangements for the management of piers, harbours, car parks, jetties, aerodromes and landing strips etc.
11. To carry out the following functions of the Council in terms of the Coast Protection Act 1949:-
 - (1) Under Section 4 to enter into an agreement with any other person for the carrying out by that person or the Council of any coast protection work which the Council have the power to carry out;
 - (2) Under Section 5 to arrange for the publication of notices relating to proposed works in local newspapers and the serving of notices on affected harbour authorities;
 - (3) Under Section 8 to arrange for the publishing of notices relating to works schemes and the serving of Notices on affected harbour authorities;
 - (4) Under Section 12 to serve notice on owners of land where protection works are required;
 - (5) Under Section 25 in relation to the authorisation of persons taking entry to land for the purposes specified therein;
12. To accept invitations to carry out road and footpath lighting works;
13. To enter objections on behalf of the Council to applications for Goods Vehicle Operators' Licences, under Section 63 of the Transport Act 1968;
14. To carry out the functions of the Council in terms of the Strathclyde Regional Council Order Confirmation Act 1990 -

- (i) under Section 5 in relation to the carrying out of works on public roads, recovery of costs thereof and the giving of assistance to the promoters of the Rally;
 - (ii) under Section 7 in relation to the removal or the arranging for the removal and custody of vehicles on the Rally route and the recovery of the costs of so doing from the owner of such vehicle; and
 - (iii) under Section 6(9) in relation to requiring the promoter to stop the Rally in the case of emergency and to enter upon such part of a road closed for the purposes of the Rally with any necessary vehicles, plant and equipment for the purpose of exercising any of the Council's functions in relation to the emergency;
15. 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.
 16. To inspect, assess, instruct and supervise repairs and maintenance of Council property.
 17. 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.
 18. 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.
 19. 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.
 20. To manage the parks, gardens, playing fields, open spaces and other recreational facilities, swimming pools and public halls provided or operated by the Council and to take such action as may be necessary;
 21. To arrange for the letting of halls and other properties managed by her/his Service on behalf of the Council;

22. To manage and operate burial grounds and crematoria, and be responsible for the records in relation thereto and to undertake the allocation of lairs on such terms and conditions as may from time to time be approved by the Council:
23. To authorise such members of staff as he/she thinks fit to issue fixed penalty notices in terms of Section 88 of the Environmental Protection Act 1990.
24. To act as appointed officer in terms of the Dutch Elm Disease (Local Authorities) Order 1984.
25. To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
26. To exercise the functions of the Council under the Environmental Protection Act 1990, as amended by the Environment Act 1995 and regulation, as they relate to the Statutory Obligations incumbent on the Council in respect of waste management.
27. To exercise the functions of the Refuse Disposal (Amenity) Act 1978, as amended by any subsequent legislation, relating to any matter referred to therein and inter alia abandoned vehicles.
28. To arrange for street cleaning, the provision of public conveniences and the provision of a school crossing patrol service.
29. To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's vehicle operator and to hold a vehicle operators licence in respect of the Council in terms of the Goods Vehicles (Licensing of Operators) Act 1995 and any regulation thereunder.
30. To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's Oil Pollution Officer.
31. To review the Asset Management Plans prepared by Services and co-ordinate these into an overall Council Asset Management Plan.
32. To designate a suitably qualified Officer to administer the Car Leasing Scheme.
33. To make grants to householders for the purpose of making good 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;

(F) 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;
4. Act in terms of Section 95 of the Local Government (Scotland) Act 1973 as the proper officer responsible for the administration of the financial affairs of the Council;
5. Exercise all the other powers and duties as set out in and in accordance with the Financial and Security Regulations as approved by the Council from time to time;
6. To discharge all the Treasury Management functions of the Council in accordance with the Financial and Security Regulations, including exercising voting rights on any stock held in the name of the Council.