

ARGYLL AND BUTE COUNCIL

THE CONSTITUTION

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April 2005

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 known as the Strategic Policy Committee which has wide ranging delegated authority to take decisions on behalf of the Council;
- (2) four decentralised Area Committees with substantial delegated authority to make decisions affecting local communities, bringing decision making closer to local people;
- (3) robust governance arrangements in the shape of an Audit Committee and a Standards Committee (on which there are independent non-Councillor members) which scrutinise and advise on the ethical standards, conduct, audit and risk management aspects of the Council's business;
- (4) a Public Service and Licensing Committee which provides a strategic reference point on matters relating to regulatory and quasi-judicial matters;
- (5) a network of Policy Development Groups set up for particular issues to provide advice to the Council, Strategic Policy and Area Committees.

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 to participate in decisions on matters placed before them, the direct operational management of the Council's services is the responsibility of the Council's Chief Executive and Chief Officials to ensure that the policies of the Council are implemented.

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 each representing a single member ward.

Election and term of councillors

- (2) The ordinary election of all councillors takes place on the first Thursday in May every four years.
- (3) The term of office of councillors is four years, each Councillor retiring on the day of election four years later.

Roles and functions of all councillors

- (4) All councillors will –
- collectively be the 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;
 - be involved in decision making;
 - be 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 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.

Allowances

- (8) Councillors are entitled to receive allowances in accordance with the *Members' Allowances Scheme*.

3. The full Council

Policy framework

- (1) The policy framework means the following plans policies and strategies –

- The Best Value Plan;
- The Budget ;
- The Children's Services Plan;
- The Community Care Plan;
- The Community Planning Strategy
- The Corporate Plan (including Area Strategies);
- The Anti Social Behaviour Strategy;
- The plans and strategies which together comprise the Development Plan;
- The Early Years Development Plan;
- The Food Law Enforcement Service Plan;
- The Local Agenda 21 Strategy;
- The Local Transport Plan;
- The Youth Justice Plan;
- The Asset Management Strategy
- The Risk Management Strategy

- The Treasury Management Policy
- The School Estate Strategy
- The Housing Strategy
- Any other plan or strategy that the Council has decided should be part of the Policy Framework.

Budget

(2) The budget includes –

- 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 or amending 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 Development 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 for further details);
 - 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 contained in article 6 of the European Convention on Human Rights.

5. Citizens' rights and the Council

Information

- (1) Citizens have the right to –
- Attend meetings of the Council, its Committees, Sub-Committees and Policy Development 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 in private;
 - 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 provision;

- 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 Area Committees' public question time provided the matter is not one regulated under Paragraph 5 (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 and in 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 about a breach of the *Councillors' Code of Conduct*.

PART II

THE ROLE OF THE LEADER, DEPUTE LEADER AND SPOKESPERSONS

6. Executive Members

Convener

- (1) The Convener is elected by the Council and normally holds office for the life of the Council in accordance with the provisions of the Local Government (Scotland) Act 1994

Leader

- (2) The Leader (and Deputy Leader) of the Council will be a councillor elected to the position of Leader (or deputy) by the Council, and will normally hold office during the life of the Council unless –

- S/he is suspended from being a councillor 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 (who will be Members of the Strategic Policy Committee) will be appointed to such positions by the Leader. A spokesperson will hold office until otherwise determined by the Leader (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 at the end of the period of suspension)

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

7. Overview and Scrutiny

- The Standards Committee (which will comprise Councillors who do not hold an executive position and two non-Councillor members) has the remit given to it within the Council's Scheme of Administration and Delegations and will monitor and provide guidance and advice on standards of conduct, governance and ethical behaviour within the Council's rules and procedures.
- The Audit Committee (which will comprise Councillors who do not hold an executive position 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 long term commitment to effective partnership working within communities. Argyll and Bute Council leads the Argyll and Bute Community Planning Partnership working with Enterprise Companies, the Health Service, the Police, the Fire Brigade and many other public agencies as well as voluntary organisations and community groups. Utilising the statutory framework of community planning it is intended that partnership working will ensure public agencies serve their communities more efficiently and operate in a more democratic, accountable, integrated and co-ordinated manner.

PART IV

OFFICERS

11. Officers

Chief Executive

- (1) The Chief Executive is the head of paid service and s/he is responsible for –
 - Ensuring the overall corporate management and operation of the Council (including overall management responsibility for all Council officers);
 - Providing advice on all matters of policy and strategy to the Council.

Executive Directors

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

Strategic Management Team

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

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
 - (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 Council's Standards Committee, the Chief Executive, the Ombudsman or the Standards Commission

- (2) A report made to the full Council by the Monitoring Officer relating to circumstances outlined in subparagraph (b) above 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.

ARGYLL AND BUTE COUNCIL

ROLE AND DUTIES OF COUNCILLORS

(“A Job Description for Councillors”)

PART A: ALL COUNCILLORS

1. INTRODUCTION

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.

2. ROLE OF COUNCILLORS

Local government serves the people 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.

As a Councillor, he or she will, therefore, participate as –

- A policy maker
- An executive decision taker
- A scrutineer of the effectiveness of the Council in delivering services

Local government represents the people 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.

As a Councillor, he or she, therefore –

- Is a representative of his or her constituents
- Is a community leader providing a focus for the development of his or her community

Local government makes rules 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 on the one hand and the Courts (or other tribunals) on the other which have separately defined roles to administer these rules. A local Council, however, has three roles –

- It must administer certain rules which Parliament has laid down for it

- It may make rules of its own
- It must administer rules of its own which it makes

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 –

- Pays attention to relevant considerations and ignores irrelevant ones
 - Considers and weighs evidence
 - Considers each issue on its merits
 - Acts fairly and within the law

Local government works with others Not only is it for Councils to plan and deliver their own services, there is an increasing acceptance and expectation, under the concept of community planning, that Councils should 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.

As a Councillor, he or she, fulfils an 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.

3.

MAIN TASKS

1. Regular attendance at meetings of the Council, and of any Committee, Sub-Committee and Working Party to which the Councillor is appointed is an essential component of the policy making and executive decision taking life of the Council.
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.

4. SKILLS AND ATTRIBUTES

1. A commitment to the ethos of public service lies at the heart of being a local Councillor.
2. Active citizenship is a commitment to contributing to and focusing on what best improves the well-being of communities.
3. The ability to assimilate a multitude of information, combined with clear thinking and common sense provide the analytical skills which enable objective and fair decision taking.
4. Dealing with constituents requires an empathetic approach to understanding the problems which they bring to their local Councillor.
5. Presentational and communication skills enable the Councillor to articulate the needs of their constituents as well as the policies and aspirations of the Council.
6. Resolving often conflicting points of view and contentious issues requires skills of negotiation, diplomacy and clear thinking.
7. Resourcing the provision of local authority services involves very significant levels of expenditure which requires budgeting and control systems which a local Councillor requires to develop an understanding of.

5. TRAINING

The Council will provide a range of training opportunities covering induction, democratic process skills, the rights and responsibilities of Councillors, including danger zones, local government finance and media and communications skills.

Developing knowledge about the functions of the Council and the services which are delivered is supported through the ongoing provision of written material as well as through seminars, workshops, presentations and other similar events.

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.

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 and the relevant Strategic Directors and Heads of Service.

- (2) Facilitating processes and communication amongst Councillors to help inform service policy development , including –
 - leading on those service matters of political/policy priority at meetings of the Council, the Strategic Policy Committee and other Committees and Policy Groups of the Council
 - providing opportunities for information sessions for Councillors on issues and aspects of the work relevant to the service,
 - by providing Spokesperson reports at Strategic Policy Committee 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 within the service, providing a bridge between the Council and employees in a manner that provides a policy background for, and recognition of, their work, in accordance with the Councillors' Code.
- (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 and in other ways.

7.

COMMITMENTS

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:-

- (1) Leadership and the promotion of –
 - the ethos of public service
 - a quality culture
 - customer focus in the provision of Council services
 - equal opportunities
- (2) Meetings with the Leader, Depute Leader, other Spokespersons and Chief/Senior Officers of the Council to contribute to corporate policy and strategy development; meetings with the relevant Director and Heads of Service when matters of service policy are to be discussed; meetings with Ministers, COSLA, representatives of other public and voluntary organisations to represent the interests of the Council; and attendance at Seminars etc related to the work of the Service all require a time commitment and availability to attend.

- (3) Developing and maintaining a pro-active and detailed awareness and understanding of –
 - service policy issues in a local and national context
 - financial and budget matters related to the Service ensuring these are understood by the Council
- (4) The ability to promote awareness of Service strategies, issues, and achievements inside and outside the Council.
- (5) Working with others always requires a variety of personal skills; working with –
 - the Leader, Depute Leader, other Spokespersons and Chief Officers requires the recognition of mutual trust and respect, and the ability to balance service development priorities with those of the Council as a whole
 - the relevant Director and Heads of Service on matters of Service policy requires an understanding and recognition of respective roles set out in the Councillors' Code
- (6) Willingness to participate in personal development opportunities provided by or through the Council

8.

CONVENER

The role of the Convener

The Convener 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.

The Convener has precedence, that is to say s/he is the first citizen of the Council area.

The Convener's functions are –

- to promote involvement in the 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

LEADER**THE ROLE OF THE LEADER**

The role of the Leader shall be as follows;

1. The Leader should
 - (i) provide political leadership for the organisation;
 - (ii) promote the interests of Argyll and Bute Council in particular and Scottish Local Government in general;
 - (iii) represent The Council as its Political Leader at meetings and events;
 - (iv) work across the Council's political groups to establish clear political direction;
 - (v) develop and manage the general relationship with the Scottish Executive, COSLA, Scottish Parliament and other key players;
 - (vi) lead the Spokespersons;
 - (vii) provide the focus for the Council's general image in the media and represent the Council in media terms where the importance of the issue demands it;
 - (viii) provide a link between the officer structure and its political structure and provide day to day political direction;



ARGYLL
AND
BUTE
COUNCIL

STANDING ORDERS

PART B

..... 2005

STANDING ORDERS

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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 Convener of the Council;
 - 1.1.2 Elect the Vice-Convener of the Council;
 - 1.1.3 Appoint a Leader and a Depute Leader of the Council;
 - 1.1.4 Appoint the Members of the Committees of the Council;
 - 1.1.5 Appoint the Chairmen and Vice Chairmen of these Committees
 - 1.1.6 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;
 - 1.1.7 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.
 - 1.1.8 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 Convener may decide that a meeting should be held somewhere else.

CS

SPECIAL MEETINGS

- 1.3 A Special Meeting of the Council may be called at any time –
 - 1.3.1 If the Convener 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.*

CS2

HOW MEETINGS ARE CALLED

Public Notice

- 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 and appropriate Area Offices 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].

- 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

- 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.
- 2.4 If a Member does not receive a summons the meeting will still be valid.

CS3

THE AGENDA AND REPORTS FOR MEETINGS

Agenda

- 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.
- 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 Convener 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.

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 appropriate Area Offices 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

- 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].
- 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 subsequently disclosed and made available in compliance with a request for information in terms of the Freedom of Information (Scotland) Act 2002.
- 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.

CS4

HOW MANY MEMBERS MUST ATTEND A MEETING

Quorum

- 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. An item of business cannot be dealt with if, because a number of Members declare an interest, less than a quorum of Members are entitled to vote on that item. [The relevant law in this case is Schedule 7 and Section 38 of 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).
- 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.
- 4.4 If at any time during a meeting there is a question about whether or not there is a quorum, the Convener will, after allowing an interval of 5 minutes, ask the Director of Corporate Services to count the number of Members present.
- 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 Convener may decide then or afterwards.

CS5

WHO PRESIDES AT MEETINGS

- 5.1 At a meeting of the Council, the Convener, if present, will preside.
- 5.2 If the Convener is absent from a meeting the Vice-Convener will preside; if they are both absent, another Councillor chosen by the Members will preside.
- 5.3 If at any time during the meeting the Convener is present she/he will preside and similarly, in the absence of the Convener, the Vice-Convener 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 Development 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.

CS7 MEMBERS OF THE PUBLIC ARE NORMALLY ALLOWED TO ATTEND MEETINGS

- 7.1 Every meeting of the Council, its Committees Sub-Committees and Policy Development 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

- 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].
- 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].
- 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 Convener may warn the person. If they continue the interruption the Convener may order that they are removed from the Council Chamber.

CS8 THE ORDER IN WHICH BUSINESS IS CONSIDERED AT MEETINGS

- 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 Convener 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 Convener 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 Convener 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 Convener is of the opinion that it is a matter of urgency and the Council agree to consider the business.

CS9

THE POWERS AND DUTIES OF THE CONVENER

- 9.1 At all times, Members of the Council will respect the authority of the Convener. If the Convener speaks, any Member who is speaking to the Meeting will stop.
- 9.2 The Convener'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 Convener will decide who is to speak first.
- 9.3 The Convener will decide all matters of order, competency, relevancy and urgency and that ruling will be final.

What might happen if a Member misbehaves

- 9.4 If a Member persistently misbehaves by disregarding rulings by the Convener, or behaves improperly or offensively, or wilfully obstructs the business of the Council, the Convener 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 Convener in the circumstances.
- 9.5 If there is disorder at any meeting of the Council, the Convener 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.

CS10

RULES OF DEBATE

How motions and amendments are moved and decided on

- 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. All motions and amendments must be moved before the debate begins. If the Convener 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.
- 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.
- 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.
- 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 least support 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 Convener may use his casting vote to decide which of them is to be dropped.
- 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.
- 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 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, 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

- 10.9 A Member may speak only once during any debate, except on a point of order
- 10.10 A Member moving or seconding a motion or amendment will not speak for more than three minutes unless the Convener allows more time. Other Members will not speak for more than two minutes.
- 10.11 The mover of an amendment and the mover of the original motion each has a right of reply, in that order, for not more than three minutes.
- 10.12 When the mover of the original motion has replied, the Convener will close the debate, and no other Member will be allowed to speak. The Director of Corporate Services or the Convener will announce the terms of the motion and amendment(s) and take the vote.
- 10.13 At Council meetings only, Members will stand when addressing the Chair.

CS11

HOW VOTES ARE TAKEN

- 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.
- 11.2 A vote will be taken by a show of hands except in the following circumstances.

Calling the roll

- 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

- 11.4 In the case of an equality of votes, the person presiding at the meeting 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

- 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 least 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.
- 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 least votes will be deleted from the list. This process of elimination will be continued until one candidate has a majority of the votes.
- 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 least 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.
- 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 person presiding will have a second or casting vote.

Whipping

- 11.9 Paragraphs 11.10 and 11.11 will apply on any occasion when an item of business is the subject of consideration at a meeting of the Council, a Committee or Sub-Committee 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.
- 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 Council, Committee or Sub-Committee 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.
- 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.

- 12.1 The Convener may adjourn the meeting for a reasonable interval if she/he decides there is a good reason to do so.
- 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 Convener 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

- 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 Convener will proceed as follows –

- 12.3.1 “That the question be now put”

If the Convener considers the matter has not been discussed well enough, 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 Convener 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 Convener is satisfied that the matter before the meeting has been well enough discussed, she/he may refuse to accept this closure motion and instead put the motion “that the question be now put”. If the Convener is of the opinion that the matter has not been well enough 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.

CS13

HOW A MEMBER SUBMITS A MOTION FOR THE NEXT MEETING

- 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 and does not include Saturdays, Sundays or Public Holidays] before the next ordinary meeting of the Council. This is called giving notice of a motion.
- 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 Convener considers that more than one of these motions deals with the same subject, only the motion received first will be considered.

CS14**HOW A MEMBER SUBMITS AN URGENT MOTION**

- 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 Convener 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 Convener 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.

C15**A MEMBER MAY ALSO SUBMIT QUESTIONS FOR A MEETING**

- 15.1 A Member may put a question to the Convener or to a Chairman of a Committee, at any ordinary meeting of the Council or a Committee. 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 Convener or the Chairman of a Committee who is being asked to answer a question will decide whether to answer it orally or in writing 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 Convener 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.

CS16**CAN A DECISION OF THE COUNCIL BE CHANGED**

- 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.
- 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 Convener is satisfied that a material change of circumstances has occurred. This means that the Convener 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 Convener 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.

CS17

MINUTES OF MEETINGS

- 17.1 Minutes of meetings of the Council and its Committees, Sub Committees and Policy Development 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 Development 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.
- 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.
- 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.
- 17.4 Minutes of subordinate committees can be submitted to the Council or Strategic Policy Committee for information and it shall be competent for members to request information on the items contained therein the Convener will decide how that information will be provided if at all.
- 17.5 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.]

CS18

DEPUTATIONS

- 18.1 Subject to what is said in Standing Order 18.2 below the Council or any Committee or Sub-Committee may hear depositions, 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 and the hearing of the deposition, without hearing the applicant, might prejudice the interests of the applicant.

- 18.2 Where a matter is the subject of consideration by more than one Committee or Sub-Committee, or by a Committee or Sub-Committee 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) in terms of any power delegated to the Committee or Sub-Committee (unless the Committee or Sub-Committee on that occasion decided not to exercise their delegated powers and refer the matter to the Council with or without a recommendation) or otherwise at a meeting of the Council; 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 Convener 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 Convener 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.
- 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 Chairman of a Committee or Sub-Committee may, at her/his sole discretion allow an application to be considered at shorter notice.
- 18.4 When the Council, Committee or Sub-Committee considers whether to hear a deputation, it must not discuss the merits of the matter itself. 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.
- 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 Chairman will decide how much time to allow, up to a maximum of 10 minutes each.
- 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.
- 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 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 21, 22, 25 and 27.1 will apply to meetings of any Committee or Sub-Committee.

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 Chairman of a Committee (or in whose absence the Vice-Chairman) 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 Chairman (or in whose absence the Vice-Chairman) may call a meeting of the Committee on dates in addition to those already decided by the Council.
- 20.3 The Chairman (or in whose absence the Vice-Chairman) of a Sub-Committee will call meetings of the Sub-Committee as these are required.
- 20.4 Area Committee Meetings will be held on dates and at places decided by the Area Committee. The Chairman (or in whose absence the Vice-Chairman) of an Area Committee may cancel or alter the date, time or place fixed for a meeting of the Area Committee, but not after the summons for the meeting has been issued.
- 20.5 A special meeting of a Committee may be called by Members as provided in Standing Order 1.3.2.

CS21. HOW MANY MEMBERS MUST BE PRESENT AT COMMITTEES AND SUB-COMMITTEES

- 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 Strategic Policy Committee when it is dealing with the functions of the Council as education authority, the Members of that Committee 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 Standards Committee and Audit Committee the persons appointed to those Committees who are not Councillors will be treated as voting Members.

CS22. ATTENDANCE OF COUNCILLORS AT COMMITTEES AND SUB-COMMITTEES

- 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, 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 Despite the previous paragraph, a Councillor cannot be present at a meeting of a Committee or Sub-Committee which she/he is not a Member of 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

22.3 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.

23. POLICY DEVELOPMENT GROUPS

23.1 Policy Development Groups will be appointed in terms of the Scheme of Administration and Delegations which is referred to in Standing Order 28.

23.2 Standing Orders 2.1, 2.3, 2.4, 3.1 – 3.5, 7.1 – 7.4 and 17.1 will apply to meetings of any Policy Development Group.

24. MEETINGS OF POLICY DEVELOPMENT GROUPS

24.1 Without prejudice to the general right of the Council, the Strategic Policy Committee, or an Area Committee (referred to in this Standing Order as an appointing body) to appoint a Policy Development Group at any time, a minimum of any two Members may propose that a Policy Development Group should be established; the following procedure will apply to the establishment of a Group on the proposal of two or more Members.

- (1) The Members concerned will set out in a notice to be given to the Director of Corporate Services the matters on which it is proposed the Group should be asked to provide advice, together with such other relevant material as the members concerned consider the appointing body might usefully require in order to reach a decision whether or not to establish such a Group;
- (2) The Director of Corporate Services will include the proposal, together with the written material provided by the Members, on the agenda for the next following ordinary meeting of, as the case may be, the Council, the Strategic Policy Committee or an Area Committee having regard to the nature of the proposal;
- (3) In the circumstances that a proposal to establish a Group is to be considered by the Strategic Policy Committee then the first two Members signing the proposal will be entitled to speak, but not vote, at the meeting of the Strategic Policy Committee at which the proposal is considered even if these two Members are not members of the Committee;

- (4) In considering a proposal (whether or not submitted in terms of sub-paragraph (1) above) to establish a Policy Development Group, an appointing body may determine that, instead of appointing a Group, the matter contained in the proposal may be added to the Terms of Reference of an existing Group (in the case of an Area Committee an existing Group is one appointed by that Committee)
 - (5) When a Policy Development Group is established, the appointing body will appoint the Members of the Group, appoint two of those Members who are Councillors to be the Chair and Vice-Chair of the Group respectively, specify the matters on which the Group is to provide advice, specify the timescale within which the Group is to submit its report or recommendations and any other ancillary matters regarding the operation of the Group as may be desirable.
 - (6) While, normally, a Policy Development Group will report and provide advice to its appointing body, the Council or the Strategic Policy Committee when establishing a Group may direct that the Policy Development Group reports, instead or in addition, to another constituent part of the Council.
 - (7) At the end of the period mentioned in sub-paragraph (5) of this Standing Order the Group will cease to exist unless before the end of that period the appointing body has substituted a revised period.
 - (8) It will be open to the Strategic Policy Committee at any time in the event that the Committee considers the resources available to support the work of Policy Development Groups is insufficient, to recommend to the Council that no further Groups should be established or that the number in total should be limited.
- 24.2 The arrangements for meetings of a Policy Development Group will be a matter for the Group concerned, but the chair of a Group may for good cause cancel or alter the place, date or time for a meeting of a Group and may call a meeting of a Group on dates in addition to those already decided by the Group, but not after the summons for the meeting has been issued.
- 24.3 In addition to any report or paper submitted by an Officer of the Council, any Member of a Policy Development Group may, in relation to any research which she/he may have undertaken, submit a report or paper for consideration by the Group, provided that report or paper is made available in time for inclusion with the agenda of business for the meeting, and any other Member of the Council may similarly submit such report or paper and may speak to the Policy Development Group in relation to that report or paper.
- 24.4 In addition to the consideration of any report or paper submitted by a Member or Officer, a Policy Development Group may seek and/or consider a report, paper or presentation from other persons, whether inside or outside the Council, but such persons shall not participate as Members of the Group.
- 24.5 While the minimum quorum for an effective meeting of a Policy Development Group to take place will be three Members of the Group, the report or reports of the Group which contain the advice and recommendations of the Group will require to be considered at a meeting of the Group at which at least half of the Members of the Group are present.

- 24.6 The content of the advice or recommendations which any Group provides will be reached if possible by consensus amongst the Members of the Group, and in the event of any difference of view which will be determined in accordance with these Standing Orders as they would apply to a meeting of a Committee of the Council, the report or reports of the Group will in addition to the advice and recommendations of the Group include a note setting out the views of those Members who may not concur with that advice or those recommendations. Other decisions by the Group relating to their procedure and operation will be reached in accordance with these Standing Orders as they would apply to a meeting of a Committee of the Council.

OTHER MATTERS

CS25

INTERESTS OF MEMBERS IN CONTRACTS OR OTHER MATTERS

- 25.1 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 certain circumstances to declare an interest. If a Member has a financial interest, direct or indirect, in any contract, proposed contract or other matter, whether registered as a Registerable Interest or not, and is present at a meeting where the contract or other 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. If a Member has a non financial interest, direct or indirect, in any contract, proposed contract or other matter, whether registered as a Registerable Interest or not, and is present at a meeting where the contract or other 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 unless the member believes that, in the particular circumstances, the nature of the interest is irrelevant or insignificant.
- 25.2 A Member shall give a notice of all Registerable Interests, financial or non financial, to the Director of Corporate Services.
- 25.3 The Director of Corporate Services will maintain a Register of Declaration of Interests made by Members. An Elector for the Council's area may look at the register.
- 25.4 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 will apply 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 Development Group shall require to accept the provisions of the Code and agree to be bound by it's 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 shall determine, and shall submit to the Jurisdiction of the Council's Standards Committee, in terms of its remit, in relation to the hearing and determination of any alleged breach of the Code and any power of sanction open to it.
- 25.5 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.

- 25.6 When a Member declares an interest they must specify whether that interest is declared as a financial or non financial interest or whether it is declared as a personal or private 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 members 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.
- 25.7 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.

26. DISCLOSING INFORMATION

- 26.1 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.
- 26.2 Any part of a document marked "Note for Publication by Virtue of Paragraph ... of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973" will not be disclosed to any person unless and until disclosure has been authorised by the Council, Committee, Sub-Committee or Policy Development Group or unless required to do so under the Freedom of Information (Scotland) Act 2002.
- 26.3 Any information discussed at a meeting of the Council, Committee, Sub-Committee or Policy Development Group, from which the public have been excluded will not be disclosed to any person unless disclosure has been authorised by the Council, Committee, or Policy Development Group or unless required to do so under the Freedom of Information (Scotland) Act 2002.
- 26.4 In addition to what it says in 26.2 and 26.3, no Member will disclose to any person any information coming to her/his knowledge by virtue of her/his office as a Councillor where such disclosure would prejudice the interests of the Council unless required to do so under the Freedom of Information (Scotland) Act 2002.

CS SUSPENDING OR ALTERING STANDING ORDERS

27. 27.1 A Standing Order can only be suspended at a meeting of the Council, or a Committee or Sub-Committee if at least two-thirds of the Councillors present agree.
- 27.2 None of these Standing Orders can be cancelled or altered unless:-
- A resolution to do so is passed after notice is given at a previous ordinary meeting of the Council; or
 - A report is made to the Council by the Strategic Policy Committee.

However, the Director of Corporate Services may submit to any meeting of the Council a note of any alterations to Standing Orders which may be required because of a decision which the Council may have taken about the conduct of its business. In these circumstances, the Standing Orders may be amended at the meeting.

27.3 Standing Orders 27.1 and 27.2 cannot be suspended.

28. SCHEME OF DELEGATION

28.1 The Council may make a Scheme of Administration and Delegation to include for the purpose of arranging for the discharge of any of the functions of the Council by a Committee, Sub-Committee or Officer.

28.2 A Scheme of Delegation will form part of these Standing Orders, and Standing Order 27.2 will apply to any alteration to the Scheme of Delegation as it applies to these Standing Orders.

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 these Standing Orders and Standing Order 27.2 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, Members of the Council, Officers and Agents of the Council as appropriate.

30. SCRUTINY OF THE STRATEGIC POLICY COMMITTEE

30.1 Where, on the consideration by the Strategic Policy Committee of any item of business, not fewer than nine Members of the Council, at least four of whom are elected Members of the Strategic Policy Committee, require immediately at the time the decision is taken (but not otherwise) that the decision should be subject to scrutiny by the Council, then, subject to paragraph 2. below, the decision shall be treated as a recommendation to the Council.

30.2 Paragraph 1 above shall not apply to any decision which arises on an item of business –

(a) Where –

(i) the Committee has considered a matter where the decision may affect the interests of any person as an individual; and

(ii) the decision is made after a hearing by the 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.

(b) Where, in the opinion of the Chairman, there is a requirement that the decision be given effect to before the next ordinary meeting of the Council.



ARGYLL
AND
BUTE
COUNCIL

SCHEME OF ADMINISTRATION AND DELEGATIONS
PART C

..... **2005**

ARGYLL AND BUTE COUNCIL

SCHEME OF ADMINISTRATION AND DELEGATIONS

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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 COMMITTEES

1.1.1 The Council will appoint the following Committees:-

- (1) A Committee of the Council to be known as the Strategic Policy Committee.
- (2) The following Area Committees:-
 - (a) Mid Argyll, Kintyre and Islay
 - (b) Oban, Lorn and the Isles
 - (c) Bute and Cowal
 - (d) Helensburgh and Lomond
- (3) Public Service and Licensing Committee
- (4) Standards Committee
- (5) Audit Committee
- (6) Appeals Committee

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

1.2 POLICY DEVELOPMENT GROUPS

- 1.2.1 (1) Policy Development Groups may be appointed from time to time.
- (2) A Policy Development Group may be appointed by the Council, by the Strategic Policy Committee, or by an Area Committee for the purpose of advising the appointing body on any matter relating to the discharge of their functions, 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 OF COMMITTEES

1.3.1 For the purpose of having, so far as possible, representation from each area of Argyll and Bute within the membership of Committees the Council recognise the division of the Council's area into the following four sub-areas:-

- (a) Mid Argyll, Kintyre and Islay, comprising EW1 (South Kintyre); EW2 (Campbeltown Central); EW3 (East Central Kintyre); EW4 (North and West Kintyre); EW5 (Knapdale); EW6 (Lochgilphead); EW7 (Craignish-Glenaray); EW8 (Islay North, Jura and Colonsay); EW9 (Islay South)
- (b) Oban, Lorn and the Isles, comprising EW10 (Awe); EW11 (Oban North); EW12 (Oban central); EW13 (Oban South); EW14 (Ardconnel-Kilmore); EW15 (North Lorn); EW16 (Mull); EW17 (Tiree and Coll)
- (c) Bute and Cowal, comprising EW18 (Bute North); EW19 (Bute Central); EW20 (Bute South); EW21 (East Loch Fyne); EW22 (Kirn and Hunter's Quay); EW23 (Ardenslate); EW24 (Milton); EW25 (Auchamore and Innellan); EW26 (Holy Loch)
- (d) Helensburgh and Lomond, comprising EW27 (Helensburgh East); EW28 (Helensburgh East Central); EW29 (Helensburgh Central); EW30 (Helensburgh North); EW31 (Helensburgh West); EW32 (West Helensburgh and Rhu); EW33 (Garelochhead and Cove); EW34 (Arrochar, Luss, Arden and Ardenconnel); EW35 (Roseneath, Clynder and Kilcreggan); EW36 (Cardross)

1.3.2 The Constitution of the Council's Committees will be as follows:-

- (1) Strategic Policy Committee
 - (a) Twelve Members; 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) Public Service and Licensing Committee
- Ten members, two from each sub-area defined at paragraph 1.3.1 and in addition a Chair and Vice Chair
- (7) Standards Committee
- Five members, none of whom shall be the holder of an executive position within the Council.
- Two members who are not Councillors, one of whom will Chair the Committee.
- (8) Audit Committee
- Five members, none of whom shall be the holder of an executive position within the Council.
- Two Members who are not Councillors.
- (9) Appeals Committees
- (a) *Staffing Appeals*
Five Members
 - (b) *Placing Appeals – Special Educational Needs*
Five Members plus two Local Attendance Council members
 - (c) *Education Appeals and Bursaries*
Five 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 the provisions of paragraph 1.4.3(2) the Members to be appointed on any occasion will be so appointed by the Director of Corporate Services from a pool to be appointed of twelve members, three each from each Sub Area of the Council comprising such Members of the Council who do not hold an executive position, and in so appointing those Members the Director will select them by lot.

- (10) Special Committee (application straddling Area Committee Boundaries)

Members being the Members representing the Electoral Wards within the Areas defined at paragraph 1.3.1 which are within the Areas of any two Area Committees.

1.4 GENERAL PROVISIONS REGULATING MEMBERSHIP, EXECUTIVE POSITIONS AND COMMITTEES OF THE COUNCIL

- 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) The Convener of the Council
- (b) The Leader of the Council
- (c) The Depute Leader of the Council
- (d) The Chair and Vice Chair of the Strategic Policy Committee
- (e) The Chair of the Public Service and Licensing Committee
- (f) The Chair of an Area Committee
- (g) A member of the Strategic Policy Committee

- (2) Except where otherwise provided by any enactment or statutory order, or otherwise by this Scheme, the Members to be appointed to any one or more executive position will be so appointed at the first meeting of Council following each ordinary election of Councillors.

- (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 notice to that effect is included as an item of business on the agenda for the meeting.

Membership of Committees 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 Committees 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 Committees specified in this Scheme other than the Strategic Policy Committee, the Council will, where the Members of the Council are divided into different political groups, allocate seats on each Committee so far as reasonably practicable such that the number of seats allocated to each group bears the same proportions as is borne by the number of members of that group to the membership of the Council as a whole and the Council in appointing members will give effect to the wishes of these Groups, and the Council will review the appointment of members to Committees as soon as practicable after any occasion on which there is a change in the division of members of the Council into different political groups.
- (3) Subject to the foregoing, so long as they remain Members of the Council the members of Committees specified in this Scheme or any other Committee 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 Strategic Policy Committee where the provisions of paragraph 1.4.2(4) will apply.
- (4) When appointing a Committee and so far as not provided for otherwise in this Scheme the Council will appoint two of the members appointed to the Committee to be respectively the Chair and Vice Chair of the Committee and they shall 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 Committee shall be filled as soon as may be by the Council after the vacancy takes place.
- (2) Provided a quorum remains a Committee may act, and its proceedings shall be not invalidated by any defect in the appointment of any person to that Committee.

1.5 GENERAL PROVISIONS REGULATING POLICY DEVELOPMENT GROUPS

1.5.1 Appointment of Members

- (1) Subject to the following sub-paragraphs any of the following bodies may appoint a Policy Development Group:-
 - The Council
 - The Strategic Policy Committee
 - An Area Committee
- (2) A Policy Development Group will comprise not less than five and not more than nine members of the Council.
- (3) When appointing such a group the body will appoint:-
 - The members, and
 - two of those members to be the Chair and Vice Chair respectively of the Group, and
 - thereafter, fill any casual vacancy in the membership or chairman or vice chairmanship of the Group as soon as may be after the vacancy occurs;

and may, subject to the approval of the Council, in the case of the Policy Development Group having been appointed by the Council and in any other case by the Strategic Policy Committee, appoint persons who are not Members of the Council, up to but not exceeding one third of the number of seats on the Group, to be members of the Group.

- (4) A member of a Policy Development Group will continue to be a member of the Group for so long as the Council or the appointing body may specify at any time, or until the next ordinary election of Councillors, but a member of a group who is a Councillor shall only remain so for as long as s/he remains a Councillor.

1.6 ADMINISTRATION OF DELEGATED AND REFERRED FUNCTIONS

1.6.1 In the administration of any delegated or referred function, a Committee, a Sub-Committee, or (in the case only of a matter referred for advice to a Policy Development Group) a Policy Development Group 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 approved Financial Regulations; and
- (2) The directions, policies, and procedures whether set out in the Standing Orders for Meetings, Contract Standing Orders, Financial and Security Regulations or otherwise laid down by the Council will be complied with.
- (3) Decisions or actions of a particular Committee, or Sub-Committee taken in the proper exercise of powers delegated in terms of this Scheme will be binding on the Council.
- (4) Each Committee will submit a report to the Council on any matter which the Committee 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. A Sub-Committee will report similarly to the Committee which appointed it.
- (5) A Committee or a Policy Development Group will furnish the Council with any information which the Council (and in the case of a Policy Development Group its appointing body) may from time to time require.
- (6) Every meeting of the Council, and any Committee, Sub-Committee or Policy Development Group 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 or that Section, 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 Strategic Policy Committee (SPC), 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 Convener, in regard to a referral to the Council, or the Chair, in regard to a referral to the SPC, of that ordinary meeting agrees to dispense with the said period;

2. Where the matter relates to the annual process of developing the Council's estimates of Revenue expenditure or Capital programme the matter will be referred to the appropriate meeting of the Council or SPC dealing with that process;
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 SPC 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 Regulating the Meetings and Proceedings of the Council, Committees and Sub-Committees, the Standing Orders relating to Contracts, and the Financial and Security Regulations and are subject to those provisions.

General Delegations to Committees

- 2.1.2 (1) A Committee 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 for that Service.
- (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 of the Council, the Financial and Security Regulations and the Contract Standing Orders, where a function of the Council is delegated to a Committee there is delegated all the matters, services or undertakings, including the acquisition, construction, holding, maintenance and disposal of any land or buildings or works contained in (1) the respective Terms of Reference of that Committee (2) any Schemes made by the Council, and (3) any minuted decision of the Council making a specific delegation to a Committee.
- (3) A Committee 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 included in a delegation to a Committee as aforesaid.

Exclusions from Delegations

- 2.1.3 There will be excluded from the delegation to any Committee, Sub-Committee, or Official the following:-
- (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 power of incurring any expenditure not provided for in the Annual Estimate of the Council unless and until such expenditure has been reported to and approved by the Council.
 - (3) The final approval of the Annual Estimates of Revenue and Capital Expenditure.

- (4) The power to fix the Council Tax, Council House Rent Levels, or the levels of charges for any services.
- (5) The appointment to a Committee, Sub-Committee or Policy Development Group of a person who is not a Member of the Council without the prior approval of the Strategic Policy Committee.
- (6) Matters reserved to the Council by Statute, Standing Orders and other schemes approved by the Council from time to time.
- (7) All the proposals for the promotion of or opposition to private legislation.
- (8) The making, alteration or revocation of any document which forms part of the Council's Constitution.
- (9) The approval of any plan which is part of the Policy Framework and any other plan which introduces new policies of major significance or vary existing policies to a material extent.
- (10) "Applications * for development which in the view of the Director of Development Services or one of the Statutory Consultees (Scottish Natural Heritage, Historic Scotland, Scottish Environment Protection Agency) are of strategic importance to Argyll & Bute because of their material effect over a wide community of interest where the Director or a Statutory Consultee recommends that a strategic approach to a determination of the application is warranted.

(* Applications for the above purposes include : applications for planning permission, woodland grant scheme and marine fish farm consultations, applications for listed building consent in respect of Category A listed buildings)"
- (11) Admission of honorary free men.
- (12) Nomination of Ex-officio Justices of the Peace, the appointment of Members to Statutory Joint Boards or to the Licensing Boards.
- (13) The dismissal of the Chief Executive.

Limitations of Delegations

- 2.1.4 Delegations to a Committee will be subject to the following restrictions and conditions:-
- (i) A Committee 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 Committee.
 - (ii) A Committee 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 to a Committee, any delegation of that function by a Committee to a Sub-Committee will be subject to the approval of the Council and a specific delegation so approved will supersede any delegation to a Committee; provided that a 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 the Committee if such matter has been approved generally by the Committee; 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 Committee of the Council will have the powers and duties set out in the Terms of Reference in respect of that Committee save that any function which is referred or delegated to a Committee will be exercised subject to the powers and functions vested in the Strategic Policy Committee.

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 a 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 Strategic Policy Committee and the Public Service and Licensing Committee and any resolution of an Area Committee will be of no effect in the event that the Strategic Policy Committee directs that the matter which was the subject of the resolution is referred to that Committee 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 be reported to the Strategic Policy Committee for approval.

2.2 STRATEGIC POLICY COMMITTEE

2.2.1 Subject to the exclusions from and limitations of delegations, with particular reference to those set out in paragraph 2.1.3 and to the other provisions of this Scheme, including those delegating any function or power of the Council to another Committee, the Committee is authorised to discharge all the powers and duties of the Council under any enactment.

2.2.2 Without prejudice to the foregoing generality:-

- (1) To advise the Council in the formulation of its policies, objectives and priorities and to recommend such forward programmes and other steps as may be necessary to achieve these.
- (2) To review the overall effectiveness of the Council's work and the standards and levels of service provided, and to keep under review the need for new services, the expansion of existing services, and the necessity for existing ones and make recommendations to the Council accordingly.
- (3) To ensure through the process of Service Planning that the most effective contribution to the achievement of the Council's objectives is being made.
- (4) Overseeing the overall arrangements for discharging the functions of the Council relating to Best Value in the provision of Council Services and relating to the exposure of Council Services to Competitive Tendering.
- (5) The overall co-ordination of work within the Council and with partner organisations in relation to European affairs and Community Planning and other similar issues and initiatives of a corporate nature, in so far as these relate to the interests of Argyll and Bute.
- (6) To advise the Council on the co-ordination, control and proper management of the financial affairs of the Council and, without prejudice to the functions of the Audit Committee, to secure the proper financial administration of the Council's affairs.
- (7) To undertake the planning, preparation, revision and control of the Council's budget estimates of capital and revenue expenditure and make recommendations to the Council as to:-
 - the Estimates of capital and revenue expenditure.
 - the rentals of houses on the housing revenue account.
 - the level of Council Tax.
 - the level of charges for any Council services
- (8) The appointment of a panel to appoint, on behalf of the Council, the Chief Executive, all Directors and Heads of Service.
- (9) For the avoidance of doubt, the discharge of 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 particularly 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 overall framework for strategic development approved by the Council.
- (3) To review and monitor the effectiveness of Council services in responding to the needs of the local area and, where necessary, to bring forward to the Council or the Strategic Policy Committee proposals for changes in policy, service delivery arrangements or resource allocations in order to make these more sensitive to the needs of the local area.

- (4) To approve expenditure as follows:-
- Revenue or capital expenditure within any allocation delegated to an Area Committee by the Council or the Strategic Policy Committee.
 - In response to applications for financial assistance from local community organisations not otherwise delegated to any Committee or officer, within any framework and criteria approved by the Council or the Strategic Policy Committee.
- (5) To determine issues of a local and non-strategic nature relating to all of the Council's services and functions, including receiving reports on and monitoring the performance of local contracts and projects.
- (6) To support the Council's work with Partner organisations and to liaise with and generally support the work of local community and voluntary organisations including community councils, school boards, and management committees of Community Education Centres.
- (7) Subject to, and without prejudice to the powers and duties of the Council which are delegated to an official, an Area Committee is authorised:-
- (a) In respect of the functions referred to in paragraph (d) below:-
 - (b) To introduce, make, review, amend or revoke any order, rules or bye-law or give any direction or notice for application only within the sub-area for which the Committee has responsibility.
 - (c) 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 relating thereto.
 - (d) The functions referred to in sub-paragraph (a) above are:-
 - (i) The Civic Government (Scotland) Act 1982, the Gaming Act 1968, the Cinematography Act 1909 and other related legislation.
 - (ii) The Council's functions under various public protection legislation including:-
 - The control, investigation and mitigation of epidemic, endemic and infectious diseases and related nuisances.
 - Food safety legislation, including milk and dairies
 - Occupational health and safety and other legislation affecting public safety, for example, Reservoirs Act 1975.
 - Water quality levels, environmental protection and pollution control legislation.
 - Caravan sites and houses in multiple occupation
 - Animal health, welfare and control legislation including pest and dog control.
 - Consumer protection, fair trading and trading standards legislation.

- Legislation under the Poisons Act 1972, the Explosives Act 1923 and the Petroleum Acts 1928/36.
- (iii) The functions of the Council as road traffic regulation authority.
- (iv) The regulatory functions of the Council under the Roads (Scotland) Act 1984
- (v) Subject as follows, and to the provisions of paragraph 2.4.A below, the under noted categories of application under the Town and Country Planning (Scotland) Acts (including related enforcement and appeals processes where appropriate) which are not otherwise delegated to officers of the Council, except where in the opinion of the Director of Development Services the application is:-
1. An application which would have to be referred to Scottish Ministers but excluding from this exception:-
 - An application for Listed Building Consent where the application is recommended for approval by the Director of Development Services.
 - An application which by virtue of the exception would require to be notified to Ministers, but where the Minister's statutory consultees have raised an objection and the application is recommended for approval by the Director of Development Services.
 2. An application which, if approved, would be contrary to the Structure Plan or a Local Plan, unless:-
 - It represented in the view of the Area Committee a minor departure, and is approved unanimously; or alternatively
 - The Director of Development Services has recommended approval of the application as a minor departure from the Development Plan, and is approved by a majority of the Members present and voting.

3. - An application which is of a minor nature as defined below which in the view of the Area Committee is considered to be consistent with Development Plan Policy and is approved unanimously.

Applications of a minor nature are defined as:

- Householder type applications i.e. alterations and extensions to dwellinghouses (excluding development affecting Category A and B Listed Buildings and Conservation Areas).
 - Housing development of 5 or less houses (excluding development in National Scenic Areas and development affecting the Historic Environment i.e. Conservation Areas, Listed Buildings, Scheduled Ancient Monument, Historic Gardens and Nature Conservation sites of National Importance, i.e. SSSI's and NNR's).
 - Advertisement consent regulations.
 - Small scale development as defined in the Argyll and Bute Local Plan:-
 - Small scale recreational development (e.g. sports fields not exceeding 2ha; up to 10 berths for boats).
 - Small scale community facilities (e.g. gross floorspace not exceeding 50m²)
 - Small scale tourist accommodation (e.g. not exceeding 10 caravans; accommodation not exceeding 10 letting units)
 - Small scale waste related development (e.g. development on sites less than 500m²)
 - Small scale fish farming (e.g. cumulatively not exceeding 5 cages or 6 suspensive buoys).
 - Small scale wind farm developments (e.g. 3 or less wind turbines).
 - Small scale mineral extraction (e.g. not exceeding 800m³ and not exceeding 2 metres in depth).
 - Small scale business and industry (buildings not exceeding 200m² footprint, gross site area not exceeding 0.5ha).
4. Enforcement matters or the initiation of appeals processes which would involve major unplanned expenditure.

An application for the above purposes includes all of the following:-

- Applications for planning permission under Section 22 of the Town and Country Planning (Scotland) Act 1972;
- Applications for Listed Building Consent under Section 53 of the Town and Country Planning (Scotland) Act 1972;
- Control of Advertisements Applications under Section 61 of the Town and Country Planning (Scotland) Act 1972;
- Consultative Applications (e.g. Woodland Grant Schemes, Council Permitted Developments, Marine Fish farms, Government Department Developments);

- Applications for Conservation Area Consent under Section 262A of the Town and Country Planning (Scotland) Act 1972;
 - Prior Notification Applications for the demolition of buildings and erection of farm/forestry buildings under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992;
 - All types of Prior Notifications included in, or introduced by the Town and Country Planning (General Development) (Scotland) Order 1992;
 - All consultative applications;
 - Hazardous substances consents in terms of Section 56A to 0 of the Town and Country Planning (Scotland) Act 1972 and the associated enforcement powers in terms of Section 97 of the Act;
 - Certificates of Lawfulness in terms of Section 90 and 90A of the Act;
 - Section 42 revocation of Planning Permission;
 - Section 56 Building Preservation Notice;
 - Section 58 and 59 Tree Preservation Orders;
 - Section 63 Wasteland Notices;
 - Sections 83C, 84, 87aa, 92, 99, 100 and 101 Enforcement Orders.
 - Applications which require to be notified to the Scottish Ministers which the Director of Development Services is recommending approval, in terms of the Schedule to Circular 4/1997 Notification of Planning Applications as follows:-
 - Agricultural land
 - Large industrial
 - Petrochemical business developments
 - Development affecting large single user high amenity services
 - Development affecting large industrial and business sites or large petrochemical sites
 - Oil related development
 - Major retail development
 - Development in the vicinity of major hazards
 - Nature conservation
 - Coastal quarries
 - Scheduled monuments in category A Listed Buildings
 - Flooding
 - New Town Development Corporations
 - Development in which Planning Authorities have an interest.
- (vi) The determination of the following Building Control matters:-
- Appealed Building Warrant Applications
 - Preparation and submission of Section 23 Certificates and reports to Licensing Boards
 - Section 10 Enforcement Action
 - Section 13 Dangerous Buildings Orders
- (8) To determine applications for home improvement, repair and amenity grants under the Housing (Scotland) Acts where not otherwise delegated.

2.4 PUBLIC SERVICE AND LICENSING COMMITTEE

- 2.4.1 (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) Subject to, and without prejudice to the powers and duties of the Council which are delegated to an Area Committee, the Committee is authorised:-
- (a) In respect of the functions referred to in sub-paragraph (d) below:-
 - (b) To introduce, make, review, amend or revoke any order, rules or bye-law or give any direction or notice.
 - (c) 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 relation thereto.
 - (d) The functions referred to in sub-paragraph (a) above are:-
 - (i) The Civic Government (Scotland) Act 1982, the Gaming Act 1968, The Cinematography Act 1909 and other related legislation.
 - (ii) The Council's functions under various public protection legislation including:-
 - The control, investigation and mitigation of epidemic, endemic and infectious diseases and related nuisances.
 - Food safety legislation, including milk and dairies
 - Health and safety and other legislation affecting public safety, for example, Reservoirs Act 1975.
 - Water quality levels, environmental protection and pollution control legislation.
 - Caravan sites and houses in multiple occupation.
 - Animal health, welfare and control legislation including pest and dog control.
 - Consumer protection, fair trading and trading standards legislation.
 - Legislation under the poisons Act 1972, the Explosives Act 1923 and the Petroleum Acts 1928/36.
 - (iii) The functions of the Council as road traffic regulation authority and the regulatory functions of the Council under the Roads (Scotland) Act 1984.
 - (iv) The functions of the Council under the Criminal Justice and Public Order Act 1994.
 - (v) Subject to paragraph 2.4.A below, the functions of the Council as Planning Authority under the Town and Country Planning (Scotland) Acts and other related legislation and also under the Building (Scotland) Acts.
 - (vi) The functions of the Council in respect of the application for and acquisition of Parental Rights and Responsibilities in terms of the Children (Scotland) Act 1995.
 - (vii) The powers of the Council to refuse registrations, impose conditions or cancel registrations in terms of Section 64 of the Social Work (Scotland) Act 1968.
 - (viii) Any other power or duty of the Council under any enactment in relation to the regulation of any activity.
 - (e) Accordingly to take any other steps in relation to any of the foregoing functions which the Committee may consider necessary or desirable.

2.4.A SPECIAL COMMITTEE (Planning Applications Straddling Area Committee Boundaries)

- 2.4.A.1 The determination of the categories of application set out in paragraph 2.3.1.(7)(v) above in any case which straddles the boundary of two Area Committees.

2.5 STANDARDS COMMITTEE

Terms of Reference

General Functions

1. To promote and maintain high standards of conduct by Councillors and other persons who may be appointed or co-opted to any Committee or Sub Committee or Policy Development Group of the Council.
2. To assist Councillors and other persons who may be appointed or co-opted to any Committee, Sub Committee or Policy Development Group of the Council to observe the requirements of the Ethical Standards In Public Life Etc (Scotland) Act 2000, the Code of Conduct, as amended from time to time, and the requirements of the Council's Governance Framework and its Regulatory Schemes.

Specific Functions

1. To advise the Council on the Councillors Code of Conduct (hereinafter referred to as the "Code") in terms of the Ethical Standards In Public Life Etc (Scotland) Act 2000, together with any Guidance and dispensation notes and the Councils own Governance Framework and Regulatory Scheme.
2. To advise, train, or arrange to train Councillors and other persons who may be appointed or co-opted to any Committee or Sub Committee or Policy Development Group of the Council on matters relating to the Code and the Council's Governance Framework.
3. To consider matters referred to it in terms of operational arrangements which the Council adopts for investigating disclosures under the Council's Public Interest Disclosure Policy and to consider reports placed before it by the Monitoring officer in terms of that Policy and to hold hearings and/or provide advice and recommendations to the Council as it thinks fit.
4. To consider representations made to it in regard to the Code or any guidance issued thereunder and to consult with the Standards Commission and the Scottish Executive in relation to any matter for clarification, revision or alteration of the Code as it shall think fit.
5. To consider any reports or case materials issued by the Chief Investigating Officer or the Standards Commission in relation to any investigation or decision of any hearing and to advise the Council on the conclusions of any investigation or decision of any hearing and on any matter of best practice in relation to the Code and any guidance issued thereunder.
6. To consider matters referred to it in terms of any requirements which may in future be laid down by statute.

2.6 AUDIT COMMITTEE

Terms of Reference

General Functions

1. To promote internal controls, financial risk and governance and otherwise, in order to provide reasonable assurance of effective and efficient operations and compliance with laws and regulations.
2. To report annually to the Council on the internal control environment.
3. To develop an anti-fraud culture within the Council to ensure the highest standards of probity and public accountability.
4. To promote good financial practice within the Council.
5. To agree the internal audit strategy and plan.
6. To receive internal audit progress reports.
7. To oversee and review action taken on internal audit recommendations.
8. To review the internal audit annual plan.
9. To be consulted on the external audit strategy and plan.
10. To review all reports from the Council's External Auditors.
11. To oversee and review action on external audit recommendations.
12. Without prejudice to the role of the Standards Committee to deal with matters included in their terms of reference, in particular matters arising from the investigation of disclosures under the Council's Public Interest Disclosure Policy, to provide assurance on the Council's compliance with Financial and Security Regulations, Contract Standing Orders and Accounting Codes of Practice.
13. To review the Council's financial performance as contained in the Annual Report and Accounts.
14. To examine the activities and accounts of the Council and exercise a governance role over management efforts to ensure (a) that the expenditure approved by the Council has been incurred for the purposes intended; (b) that services are being provided efficiently and effectively; and (c) that value for money is being obtained, all in accordance with Best Value requirements.

2.7 APPEALS COMMITTEES

(a) Staffing Appeals

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

(b) Placing Appeals/Special Educational Needs

The hearing and determination of appeals against the refusals of placing requests in terms of Section 90A of the Education (Scotland) Act 1980, and appeals in terms of Sections 63 to 65 of the 1980 Act in relation to special educational needs.

(c) Education Appeals and Bursaries

The hearing and determination of appeals relating to further education and higher school bursaries, and to access to or amendment of pupil or student records.

(d) Social Work Complaints Review

The hearing and determination of complaints in terms of the complaints procedure in terms of the National Health Service and Community Care Act 1990.

(e) Access to Personal Files Review

The hearing and determination of appeals in respect of the Access to Personal Files (Social Work) (Scotland) Regulations 1989.

SECTION III

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. In exercising any delegated function, power or duty, the designated Officer will comply with any appropriate departmental practice or procedure, of any managerial instruction given, and of any other similar consideration.

1. *Limitation of Delegations to Officials*

1.1 Delegations to Officers as set out in the following Sections 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;
- (2) Officers to whom matters are delegated will act in the interests of the Council;
- (3) Officers will exercise the authority delegated to them in accordance with this Scheme, the Council's Constitution, Standing Orders, Financial & Security Regulations, Contract Standing Orders, the Anti-Fraud & Corruption Policy, and any other similar procedures;
- (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 Committee or Sub-Committee of the Council;
- (5) Officers will, in exercising any delegations –
 - (a) 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 finances of the Council or other Services or on issues which are sensitive or complex;
 - (b) Consult the Chairman and/or Vice-Chairman of the appropriate Committee on issues which are sensitive or complex, or otherwise where consultation appears to be appropriate.
 - (c) Consult Local Members where a proposed decision or action is likely to affect significantly the constituency interests of that Member.

- 1.2 Officers will submit such reports on the decisions taken and actions authorised by them, or by other Officers authorised by them, in terms of the authority delegated to them, in accordance with arrangements made from time to time by the Director of Corporate Services.
- 1.3 Where an applicant for a service provided by the Council is a Member of the Council 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.
- 1.4 (a) Where an applicant for employment with the Council is related to a Member of the Council, 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.
- (b) 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.

2.

General Delegations to Officials

The Chief Executive and Directors of Service are authorised to –

- (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.
- (2) Under the general direction of the Chief Executive to apply and implement the terms of National and Local Agreements on Salaries and Conditions of Service to any particular post 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 their Service.
- (3) Conduct Disciplinary and Grievance proceedings and make appropriate determinations in accordance with the Council's approved Disciplinary & Grievance Procedures.
- (4) Select tenderers from Council's approved lists to receive tender documents for any contract and to award contracts subject to and in compliance with the Contract Standing Orders.
- (5) Subject to the provisions of the Contract Standing Orders, appoint Consultants to provide skills or expertise in relation to any contract, research or for the provision of training or related matters up to a value of £5,000 in respect of any one appointment.
- (6) To take such measures as may be required in emergency situations subject to advising (a) the Chief Executive, in the case of an action taken by a Director, (b) the Chair and/or Vice-Chair of the Strategic Policy Committee, and as appropriate the Chair and/or Vice-Chair of the relevant Area Committee and/or Local Member where possible and reporting to the appropriate Committee as soon as possible thereafter, on any items for which Committee approval would normally be necessary.
- (7) 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) The necessary authorisation 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.
- (8) 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 £1,000 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.
- (9) To act as the Proper Officer in terms of Sections 50(D)(1)(a) and 50(D)(5) of the Local Government (Scotland) Act 1973 (Background Papers).
- (10) 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).
- (12) To ensure compliance with the requirements of Health & Safety legislation and regulations, and the Council's policies in respect of those matters.
- (13) 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.
- (14) 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) his/her being satisfied as to the nature, extent and timetable of the works.
 - (b) a Health & Safety Assessment of Works being provided to the satisfaction of the Health & Safety Manager.
 - (c) Public Liability/Employers Liability/Professional Indemnity Insurance for appropriate levels to the satisfaction of the Director of Corporate Services.
 - (d) the specification of the nature and extent of works, methodology 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 concerned.

3.

Specific Delegations to Officials

(A) CHIEF EXECUTIVE

The Chief Executive is Head of the Council's paid service in terms of Section 4 of the Local Government and Housing Act 1989, and chief adviser to the Council on matters of general policy.

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

1. To put in place the necessary arrangements to ensure the effective corporate working of all Services to plan and provide the services and activities of the Council.

2. To put in place the necessary arrangements to ensure the co-ordination of the Council's services and activities with those of other agencies through effective community planning in partnership with the agencies.
3. Power in special cases to direct that any official shall not exercise a delegated function except where -
 - (i) the officer concerned is exercising a statutory responsibility, or
 - (ii) the officer concerned is exercising professional discretion or judgement
4. Select a long list of applicants for appointment to a post of Director for presentation to the Appointments Committee.
5. To act as the "proper officer" for the purposes of Sections 34, 145 and 206(2) of the Local Government (Scotland) Act 1973.
6. Power in an emergency to instruct executive action on a report from a Director on any matter delegated or referred to a Committee after consultation with the Leader or, in his absence, Depute Leader of the Council..
7. To give a direction on the applicability of the Scheme of Delegated Functions to an officer in any specific case.
8. Where 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 outwith the United Kingdom.
9. To determine gradings of categories of posts in implementation of review processes initiated within or outwith the Council or to correct anomalies in the Council's salary structure as a consequence of review processes, within the limits of existing budgets.
10. To determine applications for the premature payment of preserved benefits under the Local Government Pension Scheme.
11. To designate a suitably qualified officer -
 - (1) to establish principles for the operation of staff induction, training needs analysis, and training and development plans for staff on a corporate basis;
 - (2) to exercise the Council's functions under the relevant Health and Safety legislation in relation to the welfare and safety of employees and other persons who use Council property.
 - (3) to administer the Group Life Assurance Scheme
 - (4) to administer the Car Leasing Scheme
12. To authorize reports to the Procurator Fiscal or Police on matters not otherwise covered within the Council's regulatory Framework having received a report on any such matter from any source.

(B) DIRECTOR OF CORPORATE SERVICES

The Director of Corporate Services is authorised -

1. To act as "proper officer" in terms of Section 33A, 40, 50B(2), 50C(2), 50F(2) and Sections 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 have custody of all archives and regalia, and, in consultation with the Convener, 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 Schedule 1 of the Local Authorities Etc (Allowances) (Scotland) Regulations 1995.
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;
10. To act as or to designate a suitably qualified officer to act as Clerk of the Peace in terms of Section 18 of the District Courts (Scotland) Act 1975;
11. To act as or to designate a suitably qualified officer to act as Clerk to the Licensing Boards in terms of the Licensing (Scotland) Act 1976;
12. To act as or to designate a suitably qualified officer to act as the “proper officer” in terms of Sections 92, 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;
13. 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;
14. 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;
15. 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;
16. 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.;

17. To settle, without reference, up to a maximum of £25,000, any claims against the Council which involves or is likely to involve action against the Council in any Court or statutory tribunal;
18. 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;
19. 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;
20. 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;
21. 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 £25,000
22. To consider and determine, where unopposed, applications for licences under the Gaming Act 1968;
23. To determine applications for licences for late hours catering, second-hand dealers, including car dealers, boat hirers, taxi and taxi driver licences where unopposed;
24. To consider and determine, where unopposed, applications under the Betting, Gaming and Lotteries Act 1963, the Lotteries and Amusements Act 1976, the Gaming Act 1968 and for licences 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;
25. To carry out of prosecutions under Section 43(2) of the Education (Scotland) Act 1980, where he/she considers it appropriate;
26. 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.
27. To determine applications for Houses in Multiple Occupation in terms of the mandatory scheme under the Civic Government (Scotland) Act 1982.
28. To determine applications for licences and registrations under the Petroleum Acts, the Explosives Act, the Poisons Act and similar legislation;
29. 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;
30. To determine applications for licences under the Cinematograph Act 1909 and the Theatres Act 1963, where unopposed;

31. To grant authorisation in terms of the Water (Scotland) Act 1980 relating to private water supplies;
32. 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;
33. 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.
34. 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;
35. To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
36. 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;
37. Determine applications for mandatory or discretionary relief of Rates in accordance with the council's policies;
38. Enter into arrangements with the Water Authority in relation to the collection of water and sewerage charges.
39. 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;
40. 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.
41. To exercise the Council's powers to initiate sequestration proceedings.
42. To provide a valuation and estates service in respect of the valuation and management of heritable property.
43. 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 after consultation with the Director of Development Services.

44. To determine applications for licences in respect of caravan sites;
45. 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

(C) DIRECTOR OF DEVELOPMENT SERVICES

The Director of Development Services is authorised -

1. To grant applications for planning permission in respect of developments which comply with the Council's structure and local plan policies and in respect of which no objections have been received and issue consent notices.
2. To grant applications and issue completion and other related Certificates, and refuse unappealed applications under the Building (Scotland) Acts. To issue an order under the said Acts in terms of demolishing or making good a dangerous building, including Notices under Section 13 of the Building (Scotland) Act.
3. To issue approvals of reserved matters where the reserved matters have been satisfactorily resolved.
4. To determine applications for variation of planning consents under Section 64 of the Town and Country Planning (Scotland) Act 1997.
5. To determine the award of assistance under the terms of Schemes of Business Development or Employment Support approved from time to time by the Council.
6. To request, in consultation with the Director of Corporate Services, that a public local inquiry be held, in connection with any particular appeal against the refusal of planning permission or similar procedure.
7. To grant unopposed Certificates of Lawfulness in terms of Section 150 and 151 of the Town and Country Planning (Scotland) Act 1997.
8. To determine all consultative applications, and assessments of a technical nature under Delegated Legislation including the power to raise objections after consultation with the appropriate Area Chairman and the Local Member.
9. To determine prior notifications included in and introduced by the Town & Country Planning (General Development) (Scotland) Order 1992 and unopposed revocations and modifications to planning permissions under Sections 65, 66, 67 of the Town and Country Planning (Scotland) Act 1997 where there are no objections.
10. To determine hazardous substances consents in terms of the Planning (Hazardous Substances) (Scotland) Act 1997 where there are no objections.
11. To exercise the power to serve "Contravention Notices" in terms of Section 125 of the Town & Country Planning (Scotland) Act 1997 prior to formal enforcement action.
12. To exercise the power to take action against fly-posting in terms of Section 187 of the Town & Country Planning (Scotland) Act 1997.
13. To exercise the power to approve or refuse all proposed works to trees in Conservation Areas and trees protected by Tree Preservation Orders.
14. To refuse applications which were the subject of Section 75 Agreements when the applicant had not concluded the Section 75 Agreement within four months of being

notified of the requirement to do so.

15. Refusal of all planning applications in consultation with respective Area Chairman, Vice Chairman and the Local Member and in the event that the Area Chairman or Vice Chairman is also the Local Member then any other Member of the Local Area Committee in addition to the foregoing .
16. Approvals of planning applications where objections have been received which are not material planning considerations e.g. Loss of view, feu-title restrictions, character of applicant.
17. Approvals of planning applications where objections have been received which relate to procedural matters which after investigations by Council Officers cannot be substantiated e.g. Neighbour notification/publicity issues.
18. Approval of planning applications where objections have been received from Statutory Consultees on unreasonable grounds which, after investigation by, and in the opinion of, the Director cannot be substantiated.
19. Refusals of Certificate of Lawful Use and Development applications.
20. Power to determine planning applications without referring to Committee in consultation with respective Area Chairman, Vice Chairman and the Local Member, and in the event that the Area Chairman or Vice Chairman is also the Local Member then any other Member of the Local Area Committee in addition to the foregoing, where there are objections from non statutory consultees or individual small groups of objectors.
21. To deal with enforcement complaints where after investigation no breaches of planning control have been identified, and to determine what action if any to take on an illegal breach of Planning Control where an application or deemed application assessment has determined that the development is acceptable.
22. Service of Breach of Condition Notices
23. To undertake and determine “screening” and “scoping” opinions of planning applications under the Environmental Impact Assessment (Scotland) Regulations.
24. Building control relaxation refusals if hearing not requested by the applicant/agent.
25. 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,
26. 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;
27. 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;
28. 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.
30. To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
31. To act jointly with the Chief Constable in the provision of road safety;

32. 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.
33. To review the Asset Management Plans prepared by Services and co-ordinate these into an overall Council Asset Management Plan.

(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 Sections 1 and 60 of the Education (Scotland) Act 1980 including placement in day and residential schools;
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 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 School Board, to determine the dates of occasional local school holidays after consultation with any appropriate School Board;
26. to accept and administer any Educational Trusts or small endowments which may be offered to the Council for schools in their 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, (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 Education 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 DMR Schools to approve appointments, where considered necessary and where budgetary provision exists, of temporary Education Department, non-teaching staff in schools involved in Delegated Management of Resources.
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 Executive Education Department 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 Housing Account
46. To provide, maintain and revise a waiting list of applicants for houses to be allocated by the Council;
47. To allocate houses and garages in accordance with the policy decisions of the Council including authority to enter into Missives of Let on behalf of the Council in respect of

- those houses and garages;
48. To determine and issue approvals for improvement, repairs and standard amenity and environmental grants;
 49. 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;
 50. 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;
 51. To determine applications under Part II of the Housing (Scotland) Act 1987 relating to homeless persons;
 52. To be responsible for the inspection, assessment, instruction and supervision of housing repairs;
 53. To be responsible for the collection of relevant rents and charges and for the administration of the Housing Benefit Scheme and the Council Tax Benefit Scheme;
 54. To be responsible for implementation of the provisions of Part IV of the Housing (Scotland) Act 1987 relating to sub-standard houses;
 55. To be responsible for implementation of the provision of Part V of the Housing (Scotland) Act 1987 relating to repairs of houses;
 56. To be responsible for implementation of the provision of Part VI of the Housing (Scotland) Act 1987 relating to Closing and Demolition Orders;
 57. To be responsible for implementation of Part VII of the Housing (Scotland) Act 1987 relating to overcrowding.
 58. To be responsible for the amendment of Housing Provision and the preparation of a Local Housing Strategy in accordance with 5.89 of the Housing (Scotland) Act 2001.
 59. To carry out the Council's functions under the Disabled Persons (Badges for Motor Vehicles) Regulations 1982 and subsequent legislation.
 60. 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 not 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.
- 61 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.
- 62 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;

(E) HEAD OF STRATEGIC FINANCE

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

1. Determine the detailed form of Capital and Revenue Estimates consistent with the directions of the Council;
2. Determine all accounting procedures and financial records of the Council and the principles to be followed;
3. Prepare and submit to the Controller of Audit in accordance with Section 96 of the Local Government (Scotland) Act 1973 the Annual Abstract of Accounts and advertise and make them available for public inspection;
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.
7. To lodge and maintain objections on behalf of the Council to applications for and related to licences under the Gaming Act 1968, the lotteries and Amusement Act 1976, the Licensing (Scotland) Act 1976, the Civic Government (Scotland) Act 1982 and any amending or related statutes, where the applicant has outstanding financial liabilities to the Council.

(F) 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 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;
26. To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
27. 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.
28. 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.
29. To arrange for street cleaning, the provision of public conveniences and the provision of a school crossing patrol service.
30. 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.
31. To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's Oil Pollution Officer.

PART D

FINANCIAL & SECURITY REGULATIONS

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ARGYLL & BUTE COUNCIL

FINANCIAL & SECURITY REGULATIONS

1 STATUS OF FINANCIAL & SECURITY REGULATIONS

1.1 *The Financial & Security regulations provide the framework for managing the Council's financial affairs. Every Committee, Sub-Committee, Member of the Council, Officer and Agent of the Council to whom these Regulations apply will observe their provisions. It is the duty of each Director to secure that these Regulations are complied with and to ensure that all employees and agents of the Council are made aware of the Regulations and the requirement to comply with them.*

1.2 **General responsibility of staff for financial management All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.**

1.3 The Head of Strategic Finance will, for the purposes of Section 95 of the Local Government (Scotland) Act 1973, be the Proper Officer, under the general direction of the Council and the Chief Executive, for the proper administration of the Council's financial affairs.

1.4 *The Head of Strategic Finance is responsible in consultation with the Director of Corporate Services for maintaining a continuous review of the financial regulations and any alterations proposed shall be dealt with in accordance with Standing Order 27.2 . The Director of Corporate Services and the Head of Strategic Finance are also responsible for reporting, where appropriate, breaches of the financial regulations to the Strategic Policy Committee.*

1.5 In addition to what is set out in these Regulations, the Head of Strategic Finance may from time to time issue financial instructions to amplify or clarify these Regulations. Other Directors may also from time to time issue financial instructions relating to the functions and operation of their Service, following consultation with the Head of Strategic Finance.

2. FINANCIAL MANAGEMENT

2.1 Financial management covers all financial accountabilities in relation to the running of the Council's, including the policy framework and budget.

Full Council

2.2 *The full council is responsible for adopting the Council's constitution and for approving the budget. It is also responsible for approving the Council's overall framework of accountability and control. The framework is set out in its constitution.*

Strategic Policy Committee

- 2.3 The Strategic Policy Committee will be responsible for regulating and controlling the finances of the Council to comply with these Regulations. The Committee will keep under review the state of the Council's finances generally.
- 2.4 The Strategic Policy Committee will be responsible for determining and monitoring the policy and resource framework for the future development of Council policies and programmes and may provide any Committee, Sub-Committee, Member of the Council, or Officer (whether individually or collectively) with such guidance as may be considered appropriate on the priorities to be followed in the preparation of service plans generally as well as the estimates of revenue and capital expenditure.

Other Committees

- 2.5 **Audit Committee** - *The role of the Audit Committee is to provide assistance to the Council in monitoring compliance with the Council's overall framework of accountability and internal control. The Committee also provides an independent oversight on audit matters.*

Key Officers

- 2.6 Chief Executive – The Chief Executive is responsible for the corporate and overall strategic management of the Council as a whole. He or she will report to and provide information to the Strategic Policy Committee, the full council, and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.
- 2.7 **Head of Strategic Finance** – *The Head of Strategic Finance has statutory duties in relation to the financial administration and stewardship of the authority under the Local Government (Scotland) Act 1973. The Head of Strategic Finance is responsible for the proper administration of the authority's financial affairs and setting and monitoring compliance with financial management standards and is the Council's proper officer in terms of Section 95 of the Local Government (Scotland) Act 1973.*
- 2.8 **Monitoring Officer** – *the Director of Corporate Services is the Council's Monitoring Officer in terms of Section 5 of the Local Government And Housing Act 1989 he/she is responsible for the Council's Strategic Risk Management, maintaining a system of record keeping in relation to all Council decisions and monitoring compliance with the Council's Governance and Ethical Framework.*
- 2.9 Other Directors – **The other directors are responsible for:**
- *Ensuring that the council is advised of the financial implications of all proposals and that the Head of Strategic Finance has been consulted on all such proposals.*

Before any Director submits a report to a Committee she/he will consult the Head of Strategic Finance on any financial aspects of the report that are liable materially to affect the finances of the Council.

3. FINANCIAL PLANNING

3.1 *The full council is responsible for agreeing the Council's policy framework and budget. In terms of financial planning, the key elements are:*

- *The Community Plan*
- *The corporate plan – (including area plans)*
- *Service plans*
- *The revenue budget*
- *The capital programme*

In support of local decision making in a manner that is publicly acceptable regard must be taken of the CIPFA Prudential Code for capital finance in local authorities. The key objectives are to ensure that capital investment plans are affordable, prudent and sustainable; that treasury management decisions are taken in accordance with good professional practice and is supported by local asset management planning and proper option appraisal

The Code sets out minimum prudential indicators which must be used and factors that must be taken into account.

The inclusion of items in approved revenue or capital budgets will constitute authority to a relevant Director, as appropriate, in terms of the Scheme of Delegation or Contract Standing Orders, to incur that expenditure.

Revenue Budget

3.3 The Head of Strategic Finance will report to the Strategic Policy Committee on the level of financial resources likely to be available in each financial year and will keep the Committee informed about the Council's overall finances and financial performance, and Directors will provide such information as is required to the Head of Strategic Finance.

3.4 In each financial year the Strategic Policy Committee will from time to time consider detailed procedural arrangements for the preparation of the Revenue Budget. The detailed form of Revenue Estimates and the programme for their preparation will be determined by the Head of Strategic Finance.

3.5 Each Director will submit to the Head of Strategic Finance programmes of Revenue Expenditure and Income for the next and future financial years *and these should reflect the framework referred to in para 4.1 above* .

3.6 Detailed estimates of Revenue expenditure for the next and future financial years will be prepared within the guidelines and in accordance with the procedural arrangements approved from time to time in terms of paragraphs 4.3 and 4.4 above.

3.7 The draft Revenue Estimates will be considered by the Strategic Policy Committee and then by the Council, together with such recommendations as may be made by the Strategic Policy Committee (including any recommendations about the fixing of the Council Tax and Rates, and Council House Rents), for the next financial year at a meeting to be held not later than the date prescribed by law. The Council, after considering any recommendations by the Strategic Policy Committee, will revise the

estimates as they consider appropriate, approve them on that basis, authorise the expenditure, determine the Council Tax and Rates to be levied, determine the level of Council House Rents, and pass any other resolutions which may be required.

Capital Budget

- 3.8 The Head of Strategic Finance will report to the Strategic Policy Committee on the level of financial resources likely to be available to support the capital budget in each financial year and will keep the Committee informed about the overall financial position on the capital budget.
- 3.9 In each financial year the Strategic Policy Committee will from time to time consider procedural arrangement for the preparation of the capital budget. The detailed form of the capital budget and the programme for preparation will be determined by the Head of Strategic Finance.
- 3.5 The draft Capital Estimates will be considered by the Strategic Policy Committee and then by the Council, together with any recommendations that may be made by the Strategic Policy Committee. After considering any recommendations, the Council will revise the estimates as they consider appropriate, approve them on that basis, authorise (subject to the requirement to obtain any necessary Government authority) the expenditure and pass any other resolutions that may be required.

Budget Monitoring and Control

- 3.11 Each Director will monitor and control expenditure within the financial allocation provided in the Revenue and Capital Budgets.
- 3.12 The Head of Strategic Finance will provide Directors with access to the Corporate Financial Information Systems and will provide statements of income and expenditure on a regular basis to Directors.
- 3.13 Where it is forecast that the total income or expenditure for a Service or a capital project is likely to vary significantly from the approved financial allocation, the relevant Director, after consultation with the Head of Strategic Finance, will inform the Strategic Policy Committee. *He or she will also take any action necessary to avoid exceeding the budget allocation for a service or a capital project.*

Virement –

- 3.14 Virement is the process of transferring budget between cost centres, services or departments or between capital projects.
- 3.15 Virement in the Revenue Budget arises at a number of levels:-
- i) Between cost centres within a head of service.
 - ii) Between heads of service within a department.
 - ii) Between departments
 - d)

Virement may be exercised as outlined below, provided some or all of the following apply as detailed below –

- (a) the Head of Strategic Finance has been notified in advance;

- (b) the virement does not create an additional financial commitment into the following financial year;
- (c) there has been advance consultation with the Chairman and/or Vice Chairman of the Strategic Policy Committee and the Spokespersons

Virement between cost centres can be approved by the Head of Service up to a level of £25,000. Virement above this level requires approval of the relevant Director and compliance with (a) and (b) immediately above

Virement between services must be approved by the Director up to a level of £100,000 together with compliance with (a) and (b) immediately above .

Virement between services or Departments from £100,000 to a level of £200,000 must be approved by the Director or Directors together with compliance with paragraphs (a), (b) and (c) immediately above.

Virement above £200,000 requires approval of the Strategic Policy Committee.

3.16 Virement in the Capital Budget arises at the following levels –

- (a) Between projects within a service
- (b) Between services within a department
- (c) Between departments

Virement between projects within a service can be approved by the Director up to level of £200,000.

A Director may exercise virement within the Departmental Capital Budget, provided -

- (a) the Head of Strategic Finance has been notified in advance;
- (b) there has been advance consultation with the Chairman and/or Vice Chairman of the Strategic Policy Committee and the appropriate Spokesperson;
- (c) the virement arises from a need to ensure the continuation or completion of a project already begun within the capital programme. or I the virement is to or in respect of a project within the approved Departmental Capital Programme;
- (d) the amount of any individual virement does not exceed £200,000, otherwise the proposed virement will be reported to the Strategic Policy Committee .

- 3.17 A Director of Service may exercise virement in either the Service Revenue or Capital Budget to meet any immediate need created by a sudden emergency subject to advising the Chief Executive and the Chairman and/or Vice Chairman of the Strategic Policy Committee and relevant spokesperson of the action taken and to reporting to the Committee as soon as possible in respect of items which otherwise need to be reported in terms of these Regulations.
- 3.18 Where there is a proposal to forego income or to incur revenue or capital expenditure for which there is no budgetary provision, and it is not proposed to meet that expenditure by virement, the proposal will be considered by the Strategic Policy Committee which will make a recommendation to the Council.

4. RISK MANAGEMENT

- 4.1 The full council is responsible for approving the Council's risk management policy and strategy and for reviewing the effectiveness of risk management. The Director of Corporate Services is responsible for ensuring that proper insurance exists where appropriate.
- 4.2 The Director of Corporate Services is responsible for preparing the Council's risk management policy, for promoting it throughout the Council and for advising the council on proper insurance cover where appropriate.

Internal Control

- 4.3 Internal Control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.4 The Head of Strategic Finance is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- 4.5 It is the responsibility of directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving financial performance targets.

Audit Requirements -

- 4.6 The Head of Strategic Finance will arrange to secure that there is conducted a continuous and effective internal audit of the accounting, financial and other operations of the Council and, in doing so, those conducting that audit will not be subject to the control or direction of any person, and, in addition to reporting as otherwise required by the Council's Codes of Practice to the Chief Executive, the Head of Strategic Finance or the Director of Corporate Services, a report may be submitted to the Audit Committee, which Committee may give such advice and guidance as it may consider appropriate within its Terms of Reference.

- 4.7 The Head of Strategic Finance will prepare and the Audit Committee will endorse terms of reference for internal audit. Internal audit will operate within the current terms of reference which are attached at Appendix 1;
- 4.8 The Head of Strategic Finance or a person authorised by her/him has authority on production of identification, to -
- (a) enter at all reasonable time any Council premises or land:
 - (b) have access to all records, documents and correspondence including any data held on computer storage media, which relate to the operation, administration and financial transactions of the Council:
 - (c) require and receive such explanations, from any Member, employee, agent or other person, which are considered necessary concerning any matter under examination;
 - (d) require any Member, employee or agent of the Council to produce cash, stores or any other Council property under their control or to which they have access.
- 4.9 Directors are required immediately to notify the Director of Corporate Services, as Monitoring Officer, and the Head of Strategic Finance of all financial irregularities or of any circumstances that may suggest the possibility of irregularity, including those affecting cash, stores, contracts or property. The Director of Corporate Services in consultation with the Head of Strategic Finance will take whatever steps she/he may consider necessary to investigate and will immediately inform the Chief Executive in all cases where it appears that there may be a crime or offence involved. The decision as to reporting any matter to the police will be made in accordance with the Council's Ant-fraud Strategy, which is attached at appendix 2.

Insurance

- 4.10 The Director of Corporate Services will effect all insurance cover, negotiate and settle all claims in consultation with the Head of Strategic Finance and other Directors as necessary.
- 4.11 Directors will provide prompt notification to the Director of Corporate Services of all new or increased risks, property, vehicles, equipment and other assets which require to be insured and of any alterations affecting existing insurance.
- 4.12 Directors will advise the Director of Corporate Services of any activities within their Service remit which might result in any person or body having a claim against the Council, and where the risk of such an event could be covered by insurance.
- 4.13 Directors will notify immediately the Director of Corporate Services in writing of any loss, liability or damage or any event likely to lead to a claim, and will inform the police where there is a legal liability to do so, or where, after consulting the Director of Corporate Services, they have been advised to do so. In the case of incidents

involving any vehicle the appropriate Director will also notify the Director of Operational Services.

- 4.14 The Chief Executive will be informed of all cases involving personal injury to any Member, employee, agent or other person on Council premises, or associated with the activities of the Council.
- 4.15 All appropriate employees of the Council will be included in a suitable fidelity guarantee insurance.
- 4.16 The Director of Corporate Services will annually at least review all insurances in consultation with other Directors as appropriate.
- 4.17 Directors will consult the Director of Corporate Services regarding the terms of any indemnity which the Council is requested to give, or which the Council may require from any other party.

Preventing Fraud and Corruption

- 4.18 The Director of Corporate Services is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

5. CONTROL OF RESOURCES

Asset Management

- 5.1 The Director of Development Services is responsible for the development and review of an asset management strategy.
- 5.2 The Director of Development Services will establish arrangements for preparation and review of asset management plans. This will include the development of an approach to options appraisal. He/she will review asset management plans prepared by Services, and co-ordinate these into an overall Council Asset Management Plan.
- 5.3 Inventories will be maintained on a continuous basis by all Services and these will contain an accurate description of furniture, fittings and equipment, plant and machinery. The extent to which property of the Council will be recorded and the form in which inventories will be kept will be determined by the appropriate Director in consultation with the Head of Strategic Finance.
- 5.4 Each Director will be responsible for maintaining a minimum annual check of all items on the inventory, taking appropriate action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 5.5 The Council's property will not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Director concerned from time to time.
- 5.6 Equipment, Stocks & Stores - The care, custody and level of equipment and stock in any Service will be the responsibility of the Director of the Service concerned who will

ensure that -

- (a) Adequate arrangements have been made for the proper and secure storage of all equipment and stock;
 - (b) Stock levels are maintained at the minimum level sufficient to meet the operational requirements of the Service;
 - (c) All equipment and stock received, issued, or otherwise disposed of are accounted for;
 - (d) All stocks are checked a minimum of once a year in accordance with arrangements approved by the Head of Strategic Finance.
- 5.7 Any deficiencies found on stock taking or at any other time must be investigated by the relevant Director and reported to the Head of Strategic Finance who may take whatever action she/he considers appropriate including reporting to the appropriate Committee, and may write off losses of stock where she/he considers there are good and sufficient reasons for doing so.
- 5.8 Redundant and surplus stocks and items of equipment will be disposed of by competitive tender under arrangements approved by the Head of Strategic Finance, except where the Director concerned certifies that the income likely to accrue from the disposal is less than £5,000, in which case the Director concerned may dispose of the surplus so as to ensure that any reasonable value which the stock may have may be realised.
- 5.9 Vehicles, Plant & Equipment - Each Director will be responsible for the operation and control of all vehicles, (including mobile plant and equipment) in use within the Service, whether owned, leased, or hired by, or otherwise in the custody or control of the Council.
- 5.10 The Director of Operational Services will have overall responsibility for ensuring that all vehicles are maintained in a satisfactory state of repair, and will take whatever appropriate steps are necessary by way of action or advice to ensure that all legal and safety requirements in respect of their operation are complied with.
- 5.11 All vehicles and mobile plant and equipment will be used only for the purposes of the Council, and by such persons and under such arrangements as the appropriate Director will approve from time to time.
- 5.12 No employee may take a vehicle home unless officially rostered for stand-by duty and the vehicle is required for the performance of that duty, or the prior permission of the Director concerned has been granted, which permission will only be given if the use of the vehicle is required for, or arising from, the conduct of Council business. The unofficial or unauthorised use of a vehicle, including the carrying of unauthorised passengers, is prohibited.
- 5.13 If any vehicle is involved in an accident, whether or not there is injury to any person or

damage to any other vehicle or property, the person in charge of the vehicle at the time of the accident will, in addition to any other requirement of law, not later than the end of the current work period, or earlier if the nature of the accident so warrants, inform the Director of Service concerned and will complete an accident report which will be forwarded immediately to the Director of Corporate Services.

- 5.14 All use of vehicles will be recorded in such forms or log books as the Director of Operational Services in consultation with the appropriate Director, may agree.
- 5.15 All vehicles surplus to the requirements of the Council will be disposed of by competitive tender under arrangements approved by the Director of Operational Services.
- 5.16 Heritable Property - The Director of Development Services will maintain an asset register of all heritable properties owned or leased by the Council recording the holding Service, purpose for which held, location, extent and plan reference, purchase details, valuation, particulars or nature of interest, rents payable and particulars of any tenancies granted.
- 5.17 The Director of Corporate Services will have custody of all title deeds and other leases and agreements in respect of all heritable properties owned or leased by the Council.

Security & Protection of Private Property

- 5.18 Each Director is responsible for maintaining proper security at all times of all buildings, stocks, stores, furniture, equipment and cash under their control. The Director of Operational Services will be consulted in any case where security is thought to be defective or inadequate, or that special security arrangements may be required.
- 5.19 Each Director will advise the Head of Strategic Finance of all circumstances within the Service where cash is held or is otherwise under the control of employees of the Council, and will ensure that all amounts of cash so held or controlled do not exceed amounts which may be agreed with the Head of Strategic Finance.
- 5.20 Keys to safes and similar receptacles containing cash or valuable documents or articles will be carried on the person of those responsible or be kept secure otherwise. The Director concerned will in each case determine the person responsible or approve the arrangements for keeping keys secure. A register of all key holders will be kept in each Service and the loss of any keys will be reported immediately to the Head of Service concerned.
- 5.21 All employees who may be required to receive or hold cash or property on behalf of the Council, or who may be required or likely in the course of their normal duties to enter private property or otherwise confirm their identity and such other employees as a Director may direct, will be given an identity card bearing a photograph of the holder, and must produce the card to any person having reasonable grounds to know the identity of the holder.

- 5.22 The relevant Director of Service as appropriate will be responsible for ensuring that proper privacy and security is maintained in respect of information held in any medium including on any computer storage medium, and the requirements of the Data Protection Act 1998 and The Freedom of Information (Scotland) Act 2002 and any other relevant legislation are complied with.
- 5.23 Each Director will ensure that the information held in any medium and the use to which that information is put is confined solely to the purposes of the Council and in compliance with Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002 and any other relevant legislation and no person will communicate any information so held to any other person except where the information is being communicated for the purposes of the Council and where the person receiving the information is entitled to receive it.
- 5.24 In each case where it is known that the Council assumes a legal responsibility to prevent or mitigate loss of or damage to moveable private property, the Director concerned will ensure that arrangements exist so that in each case an itemised inventory will be prepared in the presence of two officers.
- 5.25 Any valuable such as jewellery, cash or documents will be deposited for safe custody in accordance with arrangements approved by the Head of Strategic Finance.
- 5.26 Any person who, by virtue of employment with the Council, is responsible for the custody or management of cash or property belonging to a third party will, in so doing, employ standards of stewardship no less than those laid down in these Regulations and elsewhere for cash and property belonging to the Council.
- 5.27 Any employee will, if required by the Head of Strategic Finance or the relevant Director concerned provide immediately a full and proper account of all cash and property received from, or on behalf of, a third party, and will, if so directed by the Director transmit that cash or property to any other specified person.

6. TREASURY MANAGEMENT, INVESTMENTS AND TRUSTS

- 6.1 The Strategic Policy Committee will have responsibility for the overall investment of money under the control of the Council. All investments of money under the control of the Council will be made in the name of the Council or in the name of nominees approved by the Strategic Policy Committee; Bearer Securities will be excepted from this regulation but any purchase of such securities will be reported to the Committee.
- 6.2 All heritable securities which are the property of, or in the name of the Council or its nominees and the title deeds of all property in the ownership of the Council will be held in the custody of the Director of Corporate Services.
- 6.3 The Council will comply with the CIPFA Code of Practice for Prudential Borrowing. The Council will approve on an annual basis a set of prudential code indicators. The Head of Strategic Finance will keep these under review and report any exceptions in

the first instance to the Strategic Policy Committee and thereafter to the Council.

The Strategic Policy Committee will keep under review the level of borrowing.

- 6.4 All borrowing and lending will be effected in the name of the Council and will be in accordance with the CIPFA Code of Treasury Management. The Council will approve from time to time a Treasury Policy Statement. The Strategic Policy Committee will approve, annually, a Treasury Management Strategy. Implementation and monitoring of its Treasury Management Policies and Practices will be the responsibility of the Strategic Policy Committee. The execution and administration of Treasury Management decisions will be the responsibility of the Head of Strategic Finance, who will act in accordance with the Council's Policy Statement and Treasury Management Practices and CIPFA's Standard of Professional Practice on Treasury Management.
- 6.5 All funds in the hands of the Council will be aggregated for the purposes of Treasury management as defined in the CIPFA Code and will be under the control of the Head of Strategic Finance.
- 6.6 All executive decisions on borrowing, investment or financing will be delegated to the Head of Strategic Finance and/or other officers designated by her/him, who will all be required to act in accordance with the CIPFA Code of Treasury Management in Local Authorities.
- 6.7 A Treasury Policy Statement will be adopted by the Council, and Treasury Management Strategy will be the overall responsibility of the Strategic Policy Committee.
- 6.8 The Head of Strategic Finance will present to the Strategic Policy Committee an Annual Report and such other reports on the Treasury Management Operation and on the exercise of delegated treasury management powers.
- 6.9 The Head of Strategic Finance will be the Council's registrar of stocks, bonds and mortgages granted by the Council and will maintain records of all borrowing of money by the Council.
- 6.10 All trust funds administered by Members and/or officers acting as trustees by virtue of their official position will wherever possible be in the name of the Council. Except as provided in regulation 16.2 all office bearers acting as trustees by virtue of their official position will deposit all securities etc. relating to the trust with the Head of Strategic Finance unless the trust deed provides otherwise.

7. SYSTEMS AND PROCEDURES

- 7.1 The Council shall ensure that there are in place sound systems and procedures and an effective framework of accountability and control.

- 7.2 Directors will ensure that a proper scheme of delegation has been established within their department and is operating effectively. The scheme of delegation should identify staff authorised to act on the directors' behalf in respect of payments, income collection and placing orders together with the limits of their authority.

Accounting Records

- 7.3 The Head of Strategic Finance will consult other Directors about the procedures and records to be maintained in each Service. All accounting procedures and all accounting and related records of the Council will be decided by the Head of Strategic Finance.
- 7.4 All accounts and accounting records of the Council will be compiled by or under the direction of the Head of Strategic Finance.
- 7.5 Directors should ensure that all accounting records and other documentation are held for the periods as required by statute or as advised by the Head of Strategic Finance.
- 7.6 The following principles will be observed -
- (a) the duties of providing information about sums due to or by the Council and of calculating, checking and recording these, will be separated as completely as possible from the duty of collecting or disbursing them.
 - (b) officers charged with the duty of examining and checking the accounts of transactions will not so far as possible themselves be involved in managing these accounts.
- 7.7 Directors should ensure that their staff receive relevant financial training that has been approved by the Head of Strategic Finance.

Procurement

The Council's Procurement Strategy is attached at Appendix 1 to the Contract Standing Orders at Part E of the Constitution. All procurement will be in terms of that strategy together with the Council's Contract Standing Orders.

- 7.8 Official orders will be in a form approved by the Head of Strategic Finance in consultation with the Head of ICT and Financial Services. Each Director will ensure that proper procedures exist for the custody, control and authorisation of official order forms.
- 7.9 Official orders will be issued for all work, goods or services to be supplied to the Council except -
- (a) work, goods or services which are covered by a prior written agreement or contract which prescribes that payment will be made at certain intervals or under certain conditions;
 - (b) specified categories of goods or services which may be purchased in accordance with and subject to the terms of any scheme approved by the

Council involving an agreement with any bank to extend credit to the Council for such purchases by way of corporate credit cards;

- (c) the metered element of utility services, but not the installation, alteration or repair of such services;
- (d) periodic payments such as rates or water and sewerage charges;
- (e) purchases in cash for which reimbursement is made through an imprest account;
- (f) where the specific approval of the Head of ICT and Financial Services has been obtained;
- (g) in an emergency, an oral order may be given under arrangements approved from time to time by each Director but will be confirmed in writing immediately thereafter.
- (h) where training courses, seminars or conferences are being booked the order form supplied by the Company organising/running the event may be used.

7.10 All orders will, by way of authorisation, either -

- (a) be signed by the appropriate Director or by a person designated by the Director to do so, and the names and specimen signatures of such persons will, if so required on any occasion, be supplied to the Head of ICT and Financial Services; or
- (b) Be issued electronically through an eProcurement system by a person designated by the appropriate Director, and where the names of such persons and authorisation limits have been notified to the Head of ICT and Financial Services. or
- (c) Be issued utilising a corporate credit card to a person designated by the appropriate Director.
- (d) under such other arrangements as may be approved by the Head of ICT and Financial Services.

7.11 The person authorising any order will ensure that the expenditure to be incurred is legal, that funds have been provided in the budget to cover the expenditure, and that the order indicates clearly the nature and quantity of goods or services to be supplied, and any contract or agreed price.

7.12 A copy of any order form will, if so required on any occasion, be supplied to the Head of ICT and Financial Services.

Payment of Accounts

7.13 All payments of money due from the Council (except interest payments under

Regulation 8.30) will be by cheque or other instrument drawn on, or by the automated transfer of funds from, the Council's main bank accounts.

- 7.14 A Director issuing an order is responsible (except as otherwise specifically arranged with the Head of ICT and Financial Services for examining, verifying and certifying the related invoice(s) and similarly for any other payments generated within the Service which may not be supported by an invoice or voucher from a third party. Such certification will be a signature by or on behalf of the Director. The names of the officers authorised to sign such records will be sent to the Head of ICT and Financial Services by each Director together with specimen signatures, and will be amended on the occasion of any change.

Where an order has been issued electronically through an eProcurement system and been authorised by a person nominated by the relevant Director, invoices should be sent directly by the supplier to the Head of ICT and Financial Services. Provided delivery of the order has been receipted and the invoice has been matched to the receipts order for price and quantity by a person nominated by the relevant Director, no further certification is necessary prior to payment of that invoice by the Head of ICT and Financial Services.

- 7.15 Before certifying an invoice or other payment document, the certifying officer will (except to the extent that the Head of ICT and Financial Services may otherwise determine) be satisfied that -

- (a) the work, goods or services to which the invoice relates have been received, carried out, examined and approved:
- (b) the prices, extensions, calculations, discounts, other allowances, credits, and VAT and other taxes are correct:
- (c) the relevant expenditure has been properly incurred:
- (d) appropriate entries have been made in inventories, stores records or stock books as required:
- (e) the invoice has not previously been passed for payment:
- (f) the invoice is in the name of the Council or an integral part of it:
- (g) the charge is a proper liability of the Council
- (h) any guidance issued by the Head of Strategic Finance or the Head of ICT and Financial Services has been complied with.

- 7.16 Where contracts stipulate that payment must be made against a consolidated statement, certifying officers may approve such statements where they are not satisfied that all the provisions of paragraph 8.15 are fulfilled provided that they immediately invoke contract procedures for the rectification of those charges, such rectification to be included on a subsequent statement.

- 7.17 Duly certified invoices will be passed without delay to the Head of ICT and Financial Services for payment and may be examined to the extent that she/he considers necessary. The Head of ICT and Financial Services will be entitled to make such enquiries and to receive such information and explanations as she/he may require.
- 7.18 Every Director will as soon as possible after 31 March notify the Head of Strategic Finance, by a date which may be specified each year, of all significant outstanding expenditure relating to the previous financial year.

Salaries and Wages

- 7.19 Each Director will keep the records and information about salaries, wages and other emoluments as the Head of Strategic Finance may require, and will be responsible for the accuracy and authenticity of that information.
- 7.20 The payment of all salaries, wages, pensions, compensations and other emoluments to all employees or former employees of the Council and all other payments made to employees as a consequence of their employment by the Council will be made under arrangements made by the Head of ICT and Financial Services. and approved by the Head of Strategic Finance
- 7.21 Each Director will notify the Head of ICT and Financial Services as soon as possible of all matters affecting the payment of emoluments, and in particular -
- (a) appointments, including temporary and casual appointments, resignations, dismissals, suspensions, secondments and transfers;
 - (b) absences from duty for sickness or other reason, apart from approved annual and other leave which has no effect on wages or other emoluments;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 7.22 The Chief Executive, Head of Strategic Finance and the Head of ICT and Financial Services, as appropriate, will keep all Directors informed about changes in conditions of service, superannuation benefits and regulations and other similar matters.
- 7.23 All time sheets, expense claims and other documents which form the basis of a payment to an employee of the Council will be in a form agreed with the Head of ICT and Financial Services. The names of officers authorised to sign these documents will be sent to the Head of ICT and Financial Services by each Director together with specimen signatures and will be amended on the occasion of any change.

Travelling and Subsistence

- 7.24 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses will be submitted to the Head of ICT and Financial Services, certified in an approved form, and made up to a specified day each month. The names of officers authorised to sign these documents will be sent to the Head of ICT and Financial Services by each Director together with specimen signatures and will be amended on the occasion of any change. All claims by a Director will be certified by the Head of Strategic Finance and any claim by him will be certified by the Chief Executive. All claims by the Chief Executive shall be certified by the Internal Audit Manager
- 7.25 Certification by or on behalf of a Director will be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 7.26 Employees claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the relevant Director.
- 7.27 Employees and Members using their own cars for official journeys are responsible for ensuring that motor insurance is in place that is appropriate for the use of the vehicle on Council business.
- 7.28 Payments of Allowances etc to Members of the Council, will be made by the Head of ICT and Financial Services or under arrangements approved by the Head of ICT and Financial Services.
- 7.29 Payments to Members of the Children's Panel, the Children's Panel Advisory Committee, to Safeguarders and to such other persons who from time to time are co-opted or required to attend as members of Committees, Sub-Committees, Panels or Policy Development Groups established by the Council, who are entitled to claim travelling or other allowances or expenses will be made by the Head of ICT and Financial Services or under arrangements approved by the Head of Strategic Finance, following submission of claims by those making the claim to the Director of Corporate Services in the first instance.

Imprests

- 7.30 The Head of ICT and Financial Services will provide such imprests as may be appropriate for Officers of the Council who may need them for the purposes of defraying petty cash and other expenses.
- 7.31 Where appropriate, the Head of Strategic Finance will open a bank account for use by the imprest holder who will not overdraw that account. Bank accounts will be opened only by the Head of Strategic Finance, or under arrangements approved by the Head of Strategic Finance.
- 7.32 Subject to the approval of the Head of ICT and Financial Services, other Directors may make arrangements for minor items of expenditure to be paid from imprest

accounts. Payments will be supported by receipted vouchers whenever possible.

- 7.33 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the Council as approved elsewhere in these regulations.
- 7.34 An Officer responsible for an imprest will, when requested, provide the Head of Strategic Finance, and the Head of ICT and Financial Services with a certificate as to the state of the imprest.
- 7.35 Officers will be personally responsible for imprests which they hold and on leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest, they will account to the Head of ICT and Financial Services for the amount advanced. A formal record of this accounting will be retained in the Service concerned for inspection.
- 7.36 All imprest accounts will be maintained in accordance with guidance issued by the Head of ICT and Financial Services in consultation with the Head of Strategic Finance.

Taxation

- 7.37 The Head of Strategic Finance is responsible for advising directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 7.38 The Head of Strategic Finance is responsible for ensuring arrangements are in place to maintain the Council's tax records, make all tax payments, receive tax credits and submit tax returns by their due date as appropriate.

Income

- 7.39 At least once a year, each Director will, in consultation with the Head of Strategic Finance, review scales of charges relating to their Service including the means of increasing income and marketing the services.
- 7.40 Each Director will notify the Head of ICT and Financial Services of all money due to the Council and of contracts, leases and other agreements and arrangements which involve the receipt of money by the Council.
- 7.41 Except as otherwise agreed with the Head of Strategic Finance the appropriate Director will, in respect of matters for which there is a legal or administrative responsibility, render accounts for all work done, goods supplied, services provided, and all other amounts due, such accounts to be rendered in terms of guidance which may be issued by the Head of Strategic Finance
- 7.42 All receipt forms, books and other forms of accountable stationary used to record financial and related transactions will be in a form approved by the Head of Strategic Finance and will be ordered, controlled and issued by, or under arrangements approved by, the Head of Strategic Finance

- 7.43 No Officer will give a receipt for money received on behalf of the Council on any form other than an official receipt provided or approved by the Head of ICT and Financial Services. This regulation will not apply to the Director of Corporate Services for money received and for which a receipt is contained in a document issued by the Director of Corporate Services. The Director of Corporate Services will, however, advise the Head of ICT and Financial Services of the issue of the document and the sum of money received.
- 7.44 All money received by an Officer on behalf of the Council will without unreasonable delay be paid to the Head of ICT and Financial Services or, as the Director may arrange, to the Council's bank accounts. No deduction may be made from such money save to the extent that the Head of ICT and Financial Services may specifically authorise.
- 7.45 Personal cheques will not be cashed out of money held on behalf of the Council, nor will personal cheques be substituted for cash collected on behalf of the Council.
- 7.46 Every transfer of money from one member of staff to another must be recorded in the appropriate departmental records by the signature of the receiving officer.
- 7.47 No debt in respect of an amount due to the Council, once correctly established, will be discharged otherwise than by payment in full, or by a resolution of the Strategic Policy Committee authorising the writing off of the debt or an unpaid portion thereof, *except that the Head of Strategic Finance or the Director of Corporate Services, who may delegate the matter to the Head of ICT and Financial Services, the Head of Legal Services or the Head of Democratic Services and Governance, may write it, or an unpaid portion, off where*
- (a) as a result of the death, sequestration or liquidation of the debtor there are insufficient free funds to meet the Council's claim; or
 - (b) otherwise, there are good and sufficient reasons for doing so, having regard to the relative level of the debt and the prospects and costs associated with securing payment.

Banking Arrangements and Cheques

- 7.48 All arrangements with the Council's Bankers will be made by or under arrangements approved by the Head of Strategic Finance and the Head of ICT and Financial Services shall operate such bank accounts as she/he may consider necessary.
- 7.49 All cheques and other forms enabling payment to be made from any Council bank account, to include any corporate credit card, will be ordered only by the Head of ICT and Financial Services, who will ensure that proper arrangements have been made for their safe custody and that adequate controls exist over the use and production of cheques.
- 7.50 Cheques drawn on the Council's bank accounts will bear the facsimile signature of the Head of Strategic Finance or be signed by the Head of Strategic Finance or

such other Officer as may be from time to time authorised by the Head of Strategic Finance.

- 7.51 All arrangements for the receipt and payment of monies using the Clearing House Automated Payment System and the Bankers Automated Clearing Services will be made by or under arrangements approved by the Head of Strategic Finance .

Significant Trading Operations

- 7.52 It is the responsibility of the Head of Strategic Finance to advise on areas of the Councils operations where the establishment of trading accounts in compliance with local Government in Scotland Act 2003 is required.

- 7.53 The relevant director responsible for each significant trading operation, in consultation with the Head of Strategic Finance, will prepare three-yearly estimates of income and expenditure incorporating any statutory or Council financial targets set.

- .54 Directors will prepare periodic trading statements for each significant trading operation.

Appendix 1 TO THE FINANCIAL AND SECURITY REGULATIONS

Internal Audit Mission Statement

“To contribute to the achievement of Argyll and Bute Council’s mission and strategic objectives by providing assurance to the Council that financial and operational controls and arrangements for Best Value are functioning efficiently and effectively and that the significant risks to the organisation are being managed.”

Terms of Reference

1 **Objectives**

1.1 To assist the Council and its Strategic Management Team in their governance responsibilities: that is, to support them in creating a mechanism to deliver an effective and efficient risk management and control framework; and to assist them in the corporate governance reporting process.

1.2 To provide assurance on the adequacy of control within the Council’s systems and activities: that is to comment on and recommend appropriate changes to mechanisms put in place by management to ensure systems and activities achieve their objectives; and to bring deficiencies therein to the notice of operational management and ultimately to the Audit Committee.

1.3 To advise management on cost effective controls for new or modified systems and activities;

1.4 To highlight opportunities to reduce costs through greater economy and efficiency within systems and activities.

1.5 Internal Audit areas of focus include:

- ❖ Internal control effectiveness
- ❖ Statutory, procedures and control compliance
- ❖ Implementation of recommendations
- ❖ Corporate governance
- ❖ Systems development
- ❖ Process improvement
- ❖ Value for money and Best Value

1.6 Over time it is envisaged that the function will increase the proportion of reviews of operational systems, value for money and contribute to Best Value.

2 **Scope**

2.1 The scope of internal audit includes the examination and evaluation of the adequacy and reliability of the Authority’s system of internal control. Internal audit is responsible for providing assurance across all of the Authority’s activities.

2.2 Internal Audit’s work provides assurance on the extent to which management controls ensure that:

- ❖ significant risks are identified, assessed and appropriately managed;
- ❖ objectives are established and achievement against them is monitored;
- ❖ the Council’s assets are safeguarded from significant losses, including those caused by fraud, waste, inefficiency and commercially unsound practices;

- ❖ relevant laws, rules and regulations are complied with;
- ❖ operations are conducted effectively, efficiently and economically;
- ❖ operations are conducted in accordance with Council policies and procedures;
- ❖ management information systems are reliable and secure;
- ❖ systems under development are monitored, that appropriate internal controls are built in and are consistent with the organisations' needs;
- ❖ major Council projects achieve their objectives; and
- ❖ throughout the Authority's activities it can demonstrate good governance.

2.3 In addition, Internal Audit may perform special reviews requested by the senior management or the Audit Committee. When plans are changed for such reviews, this is reported to the Audit Committee so that it clearly understands the implications on resources and for the assurance it requires about internal controls, and any impact on the delivery of agreed plans.

3 Role

3.1 'Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve the Authority's operations. It helps the Authority accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

3.2 When internal auditors provide advice to management in a consultancy capacity, auditors will be clear that such advice will not confer any operational responsibility upon them.

4 Independence

4.1 Internal audit does not have any executive responsibilities and is independent of the activities, which it audits. This enables them to provide impartial and unbiased opinions and recommendations.

4.2 Line managers are fully responsible for the quality of internal control within their area of responsibility. Internal audit is not a substitute for proper control in any sphere of the Authority's activities.

4.3 Internal audit will give advice and make recommendations however, it is the decision of management on whether to implement recommendations or not and they who are accountable for such decisions.

5 Authority and Access

5.1 Internal Audit derives its authority from the Council who enable them to have unrestricted access to all records, systems, documents, property and staff as required in the performance of its work. Internal auditors are authorised to obtain information and explanations they consider necessary from any employee or agent of the Authority to fulfil their objectives and responsibilities. Internal audit require a timely written response to any findings and recommendations contained in assignment reports.

5.2 Any proposed significant changes to systems and procedures should be notified to internal audit so that the implications for internal control can be assessed and acted upon.

5.3 The Internal Audit Management will have unfettered right of access to the Chair of the Audit Committee and the Chief Executive.

5.4 Elected members and staff have a right of access to raise any matter of concern with the Internal Audit Management

6 Internal Audit Management

6.1 The Council's Internal Audit management team has responsibility for:

- ❖ Assisting executives with risk management.
- ❖ Developing a plan that is based on assessed Council risks and Internal Audit's objectives.
- ❖ Developing a programme based on the plan and which is flexible enough to meet changing organisational needs.
- ❖ Ensuring that resourcing arrangements are in place to deliver the plan and are flexible enough to cope with special requests
- ❖ Providing regular progress reports to senior management and the Audit Committee.
- ❖ Ensuring Internal Audit remains effective, credible, productive and focused on areas of most significance to the Council.
- ❖ Working with line management constructively to challenge and improve established and proposed practices and to put forward ideas for improving processes.
- ❖ Developing an appropriately skilled team, supported where necessary by external expertise, to meet best practice.
- ❖ Maintaining an open relationship with the external auditors.
- ❖ Fostering a culture of joint working with management leading to agreed solutions.

6.2 Internal audit management policies and procedures will be detailed in an Audit Manual which will be made available to all audit staff.

6.3 Internal Audit is not relieved of its responsibilities when areas of the Council are subject to review by others. It always needs to assess the extent to which it can rely upon that work, co-ordinate its audit planning with those other review agencies, e.g. external auditors, and decide what further investigations need to be carried out.

7 Reporting

7.1 Internal audit will report on individual assignments to the relevant service management, with copies provided to the Head of Strategic Finance and the external auditors. Summary information will be provided to the Chief Executive and the Audit Committee.

7.2 The strategic and annual audit plans will be presented to the Audit Committee for their approval.

7.3 Internal audit will report at each meeting of the Audit Committee on assignments completed since the previous meeting and bring any significant matters to their attention. It will also provide the Committee with reports concerning the implementation of recommendations made to management by internal audit and on progress made against the audit plan.

7.4 The Internal Audit Management will provide annual reports to the Audit Committee about the work of the internal audit team in the year and will provide an overall assessment of the robustness of internal control to the Committee.

8 Quality and Skills

8.1 The Council's Internal Audit management team is responsible for ensuring the skills of Internal Audit are developed and maintained through:

- ❖ re-skilling and training Internal Audit staff e.g. in complex technical areas, in the use of technology, implementing best practice and in developing inter-personal skills such as communication;
- ❖ techniques such as benchmarking to identify and adopt appropriate best practices;
- ❖ the engagement of external specialists as and when necessary and cost-effectively to meet changing Council needs.
- ❖ developing and monitoring appropriate internal audit performance measures, including mechanisms for continuous improvement

8.2 Internal audit staff, including the internal audit management, will be required to hold appropriate qualifications commensurate with their role and to maintain their competence by undertaking regular training and relevant Continuing Professional Development (CPD).

8.3 Internal Audit must demonstrate objectivity and professionalism, including applying best practice and compliance with the professional codes of practice such as the Code of Practice for Internal Audit for Local Authorities in the U.K.

APPENDIX 2 - TO THE FINANCIAL & SECURITY REGULATIONS

ARGYLL AND BUTE COUNCIL

Anti-Fraud Strategy

Contents

1. Introduction
 2. Our Written Rules
 3. How we Expect our Members and Employees to Behave
 4. Preventing fraud and corruption
 5. Detecting and Investigating Fraud and Corruption
 6. Training
 7. Conclusion
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Appendix 3 - Prosecution Policy – Page 120
Appendix 4 - Housing Benefit and Council Tax Benefit Security Strategy and Referral Policy – Page 121

1. INTRODUCTION

1.1 Argyll and Bute Council is a large organisation and the size and nature of our services puts us at risk to loss due to fraud and corruption both from within the Council and outside it.

1.2 We are committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is the possibility of fraud, corruption and other problems, we will deal with it in a firm and controlled manner.

1.3 An important part of this approach is an anti-fraud and anti-corruption strategy, which we will use to advise and guide members and staff on our approach to the serious issues of fraud and corruption. This document provides an overview of our policy in this matter and includes a 'fraud response plan' which provides more detailed guidance on how to deal with fraud and corruption.

1.4 The main message is that we expect all members, employees, consultants, contractors, and service users, to be fair and honest, and to give us any help, information and support we need to deal with fraud and corruption.

1.5 The strategy set out in this document covers the following areas:

- Our written rules
- How we expect our members and employees to behave
- Preventing fraud and corruption
- Detecting and investigating fraud and corruption
- Training

2. OUR WRITTEN RULES

2.1 We have a number of procedures and rules to make sure that our financial, working and organisational procedures are properly controlled. These are an important part of our internal control process, and it is important that all members and staff know about them.

2.2 The most important of these are as follows:

- Council Standing Orders
- Contract Standing Orders

Financial and Security Regulations
Scheme of Delegation
Guidance-Code of Conduct for Employees
Protocol for Member / Officer Relations
Public Interest Disclosure Policy
Housing Benefit and Council Tax Benefit Security Strategy and Referral Policy
Employees' Conditions of Service

There is also the Councillors National Code of Conduct.

2.3 Individual departments have also introduced their own measures, which are designed to control their activities. Examples include accounting control procedures, working manuals and operating procedures.

2.4 Directors must make sure that all staff have access to these rules and regulations and that staff receive suitable training.

2.5 Members and employees must make sure that they read and understand the rules and regulations that apply to them, and act in line with them.

2.6 If anyone breaks these rules and regulations we may take formal action against them. This may include ending their employment with the Council in respect of employees and, in respect of members. It will be the responsibility of the Director of Corporate Services as Monitoring Officer to report matters to the appropriate authority.

3. HOW WE EXPECT COUNCIL MEMBERS AND EMPLOYEES TO BEHAVE

3.1 We expect all people and organisations who are in any way associated with us to be honest and fair in their dealings with us and our clients and customers. We expect our members and employees to lead by example in these matters.

3.2 Our Ethical Framework, or internal rules, for members and employees set out an approach to work that is both honest and fair. Members and employees must act in line with the Ethical Framework at all times.

3.3 Our members and employees have an essential and integral part to play in dealing with fraud and corruption and we will encourage our staff and members to inform us if they suspect a case of fraud.

3.4 We will deal with all information fairly and confidentially. We will endeavour not to reveal the names of the people who gave us the information. Our fraud response plan (Appendix 1) and our Public Interest Disclosure Policy (Appendix 2) give more advice on this issue.

3.5 The Nolan Committee sets out the seven guiding principles that apply to people who serve the public. We will develop our working behaviour around these principles..

3.6 We expect our Directors to deal firmly and quickly with anyone who is responsible for fraud or corruption. The Director of Corporate Services in consultation Chief Executive, the Director within whose Department the fraud is alleged to have occurred and the Head of Strategic Finance and the Internal Audit Manager may refer matters to the police where he suspects any criminal activity has been carried out.

3.7 We must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations against a colleague, will be dealt with as a disciplinary matter.

4. PREVENTING FRAUD AND CORRUPTION

4.1 We believe that if we are to beat fraud and corruption, we must prevent it from happening in the first place. It is essential that we have clear rules and procedures, within which members, employees, consultants and contractors can work. These include the main corporate rules, which are set out in section 2.

4.2 We must regularly review and update our written rules.

4.3 Managing the risk of fraud is the responsibility of the Council's Management. Directors must make sure that suitable levels of internal check are included in working procedures, particularly financial procedures. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process being built into the system.

4.4 We must follow our procedures when employing new staff. If possible, we must check the previous employment records of anyone we are considering employing. This applies to both temporary and permanent staff.

4.5 We are committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, we will be prepared to help and exchange information, subject to the requirements of Data Protection, with other Councils and organisations to deal with fraud.

4.6 This kind of work needs to be tightly controlled particularly in relation to data protection issues.

4.7 The Public Interest Disclosure Policy provides a process for people to give us information which may be given in confidence that may prevent fraud and corruption.

4.8 We will make sure that full details of reporting facilities are widely published to the public, members and employees, and that all information we receive in this way is investigated and dealt with.

5. DETECTING AND INVESTIGATING FRAUD AND CORRUPTION

5.1 You should read this section with our fraud response plan (Appendix 1) and our Prosecution Policy and Housing Benefit and Council Tax Benefit Security Strategy and Referral Policy (Appendices 3 and 4 respectively).

5.2 Employees must report any suspected cases of fraud and corruption to the appropriate line manager, or, may do so in terms of the Public Interest Disclosure Policy to the Director of Corporate Services. Reporting cases in this way is essential to the anti-fraud and corruption strategy and makes sure that:

- suspected cases of fraud and corruption are investigated properly,
- the fraud response plan is carried out properly,
- there is a standard process for dealing with all suspected cases of fraud and corruption,
- people and our interests are protected.

5.3 The Council's Public Interest Disclosure Policy is intended to encourage and enable anyone to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998).

5.4 The Director of Corporate Services in consultation with the Chief Executive, the Director within whose Department the fraud is alleged to have occurred will decide on the type and course of the investigation. This will include referring cases to the police where necessary. The alleged fraud will also be reported to the Head of Strategic Finance and the Internal Audit Manager. We will prosecute offenders and we will carry out our disciplinary procedures

where appropriate. We will ensure that any internal proceedings do not prejudice any criminal case.

5.5 The Internal Audit Manager, whilst not participating in the investigation of the alleged fraud, will liaise with the Director of Corporate Services in his Investigation of the alleged fraud and in particular;

1 Examine current Council policies, procedures and financial controls, their current working and effectiveness in relation to the alleged fraud;

2 Report to the Strategic Management Team in relation to the adequacy of current Council policies, procedures and financial controls in relation to the alleged fraud and make recommendations for their revisal;

3 Provide advice and assistance to the Director of Corporate Services in relation to Council policies, procedures and financial controls and control issues relevant to the investigation of the alleged fraud.

5.6 In respect of any case of alleged fraud or corruption discovered by or referred to the Director of Corporate Services he shall;

1 Deal promptly and confidentially with the matter;

2 Maintain full documentation of all evidence received and comply with the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002 in relation to the release of information in relation to the alleged fraud;

3 Ensure that the investigation is carried out having regard to the Councils policy under the Regulation of Investigatory Powers (Scotland) Act 2000 and it's obligations under the Human Rights Act 1998;

4 Ensure that the evidence is sound and adequately reported;

5 Report findings to the Strategic Management Team;

6 Liaise with the Internal Audit Manager in accordance with paragraph 5.5 hereof.

5.7 In cases relating to Housing Benefits and Council Tax Fraud the action taken will follow the prosecution policy outlined in Appendix 4. All other instances of fraud the action taken will follow the prosecution policy outlined in Appendix3.

5.8 The Accounts Commission has powers to request or carry out an investigation into fraud and corruption.

6. TRAINING

6.1 We understand that the key to introducing a successful anti-fraud and anti-corruption strategy and making sure it continues to apply will depend on programmed training and the way all our employees respond.

6.2 We support the idea of providing training for our employees who are involved in or managing internal control systems to make sure that their responsibilities and duties are regularly reviewed and reinforced.

6.3 We are also committed to training and developing our employees who are involved in investigating fraud and corruption and we will provide suitable training.

7. CONCLUSION

7.1 We are committed to tackling fraud and corruption whenever it happens. Our response will be effective and organised and will rely on the principles included in this document.

7.2 We will continue to review our rules and procedures and will make sure that this strategy document is regularly reviewed to make sure it stays effective.

Fraud Response Plan

1. Introduction

1.1 Argyll and Bute Council is committed to the highest possible standards of openness, probity and accountability in all its affairs. It is determined to develop a culture of honesty and opposition to fraud and corruption.

1.2 In line with that commitment, the Council's Anti-Fraud Strategy outlines the principles we are committed to in relation to preventing, reporting and managing the investigation and prosecution of fraud and corruption.

1.3 This Fraud Response Plan reinforces the Council's robust approach by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption. It also outlines how the Council will deal with such complaints.

2. What Do We Want To Know About?

2.1 This Plan is intended to be implemented where suspicions of fraud or corruption have been raised.

Fraud is defined as:

"The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain".

Corruption is defined as:

"The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person".

2.2 Concerns or allegations which fall within the scope of other, existing, procedures (eg child protection or discrimination issues) will normally be referred for consideration under those procedures.

2.3 Fraudulent or corrupt acts may include:

Systems Issues - i.e. where a process/system exists which is prone to abuse by either employees or public (eg Planning Applications)

Financial Issues - i.e. where individuals or companies have fraudulently obtained money from the Council (eg invalid invoices/work not done, Housing Benefit fraud)

Equipment Issues - i.e. where Council equipment is used for personal use, (eg personal use of Council vehicles)

Resource Issues - i.e. where there is a misuse of resources (eg theft of building materials)

Other Issues - i.e. activities undertaken by officers of the Council which may be:

- unlawful,
- against the Council's Standing Orders or policies,
- below established standards or practices,
- improper conduct (eg receiving hospitality).

This is not an exhaustive list.

3. Safeguards

Harassment or Victimisation – The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.

Confidentiality – The Council will do its best to protect an individual's identity when he or she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

Anonymous Allegations – This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources

Untrue Allegations – If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

4. What Should An Employee Do If They Suspect Fraud Or Corruption?

4.1 Employees are often the first to realise that there is something seriously wrong within the Council. If they have serious concerns in relation to fraud or corruption within the council they should report this to their line Manager. However, they may not express their concerns in this way because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

4.2 The Council's Public Interest Disclosure Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle to the media or other external bodies.

4.3 A copy of the Public Interest Disclosure Policy is attached as Appendix 3.

5. What Should A Member Of The Public Do If They Suspect Fraud Or Corruption?

5.1 The Council encourages members of the public who suspect fraud and corruption to contact the Chief Executive or Director of Corporate Services in the first instance. Members of the public may report matters to the Director of Corporate Services in terms of the Public Interest Disclosure Policy. Both the Director of Corporate Services and the Head of Strategic Finance have obligations to maintain and review the Council's Financial and Security Regulations and any suspected breach of these may be reported to either of them.

5.2 Argyll and Bute Council wishes to maintain procedures with the following aims:

- To develop an anti-fraud culture
- To deter, prevent, detect and investigate fraud and corruption
- To see appropriate action against those who commit or seek to commit some sort of fraud or corruption

To obtain compensation in respect of any losses to the Council

5.3 The possible courses of action taken by the Council are outlined below.

5.4 The Director of Corporate Services can be contacted by phone on 01546 602127 or by writing to;

The Director of Corporate Services, Kilmory Lochgilphead, Argyll.

6. How Will Allegations Of Fraud Or Corruption Be Dealt With By The Council?

6.1 For issues raised by employees or members of the public, the action taken by the Council will depend on the nature of the concern. The matters raised may:
be investigated internally,
be referred to the Police

6.2 Within 10 working days of a concern being received, the Chief Executive, Director of Corporate Services or designated officer will write to the complainant:
acknowledging that the concern has been received
indicating how it proposes to deal with the matter
giving an estimate of how long it will take to provide a final response
telling them whether any initial enquiries have been made
telling them whether any further investigations will take place, and if not, why not

6.3 The Council accepts that those people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, they will receive information about the outcomes of any investigation.

7. Alternative Methods For Taking A Complaint Forward

7.1 If either a member of the public or an employee feel it is right to take the matter outside these processes, the following are possible ways forward:

your local Councillor – If you are unsure how to contact them, call the Council on 01546 602127 for advice.

the Accounts Commission – who are the organisation appointed to scrutinise the Council's finances and performance. By law, they must be completely independent from the Council.

your Trade Union – employees may invite their Trade Union to raise a matter on their behalf.

the Police – suspicions of fraud or corruption may be reported directly to the Police.

the Scottish Public Services Ombudsman– this is an independent body set up by the Government to deal with complaints against public bodies such as Councils in Scotland.

Public Concern at Work – this is a charity which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 0171 404 6609 or can be e-mailed at whistle@pcaw.demon.co.uk.

PUBLIC INTEREST DISCLOSURE POLICY

1.

INTRODUCTION

- 1.1 Argyll & Bute Council is committed to the highest standards of openness, probity and accountability. These high standards are coupled with a positive approach to enabling employees and others who become aware of wrongdoing, improper conduct or other failures of a substantive nature to bring attention to their concerns. The Council's Public Interest Disclosure Policy is, therefore, designed –
- To set out a process for the investigation of certain disclosures of information which are made in the public interest;
 - To provide protection from reprisal or victimisation for individuals who make such disclosures in good faith; and
 - Thus to provide a genuine recourse for legitimate representations without encouraging a climate in which they become malicious, trivial or routine.
- 1.2 There are existing procedures in place which enable employees of the Council to raise a grievance relating to their own employment. The Public Interest Disclosure Policy is designed to deal with matters which fall outwith the scope of the Grievance or Disciplinary Procedures

2.

SCOPE

- 2.1 In the context of the work of Argyll & Bute Council, a "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the person making the disclosure, tends to show one or more of the following –
- (a) That a criminal offence has been committed, is being committed or is likely to be committed,
 - (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject,
 - (c) That any person has failed, is failing or is likely to fail to comply with any obligation as to their conduct or otherwise imposed on that person by –
 - The Argyll & Bute Council Protocol governing relations between Members and Officers.
 - The Council's Standing Orders, Contract Standing Orders, or Financial and Security Regulations.
 - The Argyll & Bute Code of Conduct for Officers.
 - (d) That the health or safety of any individual has been, is being or is likely to be endangered.
 - (e) That the Council has committed, is committing or is likely to commit to a course of action which is unlawful
 - (f) That the Council has taken, is taking, or likely to take a course of action, or there has been a corresponding failure, which is likely to give rise to a finding of maladministration on the part of the Council
 - (g) That information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

A qualifying disclosure is made in accordance with this policy if the person –

- (a) Makes the disclosure in good faith
- (b) Reasonably believes that the information disclosed, and any allegation contained in it, are substantially true
- (c) Does not make the disclosure for purposes of personal gain
- (d) In all the circumstances of the matter, believes it is reasonable for the person to make the disclosure.

2.2 Any disclosure alleging a breach of the Councillors Code of Conduct issued under the Ethical Standards & Public Life Etc (Scotland) Act 2000 in respect of a Councillor should be referred by the person making the disclosure to the Office of the Chief Investigating Officer, the Standards Commission for Scotland, Forsyth House, Innova Campus, Rosyth Euro Parc, Rosyth, KY11 2UU – telephone – 01383 428 033 – fax – 01383 428 019 – email: investigations @ standardscommision.org.uk

3. SAFEGUARDS

- 3.1 The Council recognises that taking a decision to report a concern of the type covered by this policy can be a difficult one, not least because of the fear of reprisal. The Council makes it clear that it will not tolerate any reprisals under any circumstances and will take action to protect a person who makes a qualifying disclosure.
- 3.2 If a disclosure is made in good faith but is not confirmed by subsequent investigation, no action will be taken against the person making the disclosure. The Council will, however, protect itself, its Members and Employees against malicious allegations and will take appropriate action against any person who makes such an allegation. The Council will also take such reasonable steps which may be open to it to minimise the impact on any of its Members or Employees of an allegation which is either malicious or unfounded.
- 3.3 Nothing in this Policy means that if a person is already the subject of any action or procedure against them (including in the case of employees, disciplinary procedures) that those procedures will necessarily be halted as a result of a disclosure made under this policy.

4. CONFIDENTIALITY

- 4.1 In a culture of openness, and against the Council's stated policy that it will protect a person who may make a disclosure in good faith and in the public interest, and to assist any investigative process, it is clearly desirable that the person who makes a disclosure should be prepared to do so on an attributable basis. The Council will, however, take reasonable steps, but cannot guarantee, to protect the identity of a person who makes a disclosure and does not wish his or her name to be disclosed, subject to the following factors –
 - (a) The seriousness and nature of the issues raised
 - (b) The likelihood of confirming any allegation from other attributable sources
 - (c) The need for evidential statements as part of any investigation
 - (d) The credibility of the allegation, and, in all the circumstances, the need to allow a person against whom an allegation is made to test the veracity and substance of it
 - (e) The likelihood, in all the circumstances, of unwarranted reprisals being directed against a person who makes a disclosure.

- 4.2 The Officer conducting the investigation will, however, take all necessary steps to ensure that the name of a person who makes a disclosure is not disclosed to others within the Council except, strictly, on a need to know basis in order to further the due completion of the investigation and the Council's response to it. (See paragraph 5 below)
- 4.3 The Council will not disclose in any public document the name of any person who makes a disclosure, nor will the Council disclose that person's name to any third party outside the Council except –
- Where an offence may have been committed and there is considered to be an obligation to report that to the Police or Procurator Fiscal, or to co-operate with enquiries instituted by the Police or the Fiscal
 - Otherwise where there would be any failure on the part of the Council to comply with any legal obligation on them.
- 4.4 Allegations expressed anonymously will not normally be considered. In exercising any discretion to consider any anonymous allegation, the factors which will be taken into account are –
- The seriousness and nature of the issues raised
 - The credibility of the concerns
 - The likelihood of confirming the allegations from other attributable sources

5. DISCLOSURES AND THEIR INVESTIGATION

- 5.1 As noted earlier, this Policy is designed to provide recourse for legitimate representations to be made about wrongdoing, improper conduct or other failure of a substantive nature. Any person making a disclosure in terms of this Policy should do so to the Council's Monitoring Officer. The Monitoring Officer will decide –
- (a) Whether the matter is one which should be dealt with under the Council's Grievance or Disciplinary Procedures, and, if so, will refer the matter to the appropriate Officer.
 - (b) Whether the matter is one which should be dealt with under any Complaints or other procedure of the Council, and, if so, will refer the matter to the appropriate Officer.
 - (c) Whether the matter is one which should be investigated in terms of this Policy and, if so, will conduct an investigation in terms of this Policy.
 - (d) In the absence of an investigation in terms of this Policy, what other action, if any, should be taken.
- 5.2 Notwithstanding and without prejudice to the statutory obligations placed on the Monitoring Officer, for the purposes of this Policy the function of the Monitoring Officer is to investigate a disclosure of information, and any allegation contained in it, relating to any matter contained in paragraph 2.1 of this Policy.
- 5.3 The purpose of an investigation under this Policy will be to determine which of the following findings is the case –
- (a) That there is no evidence of any failure to comply with any of the matters set out in paragraph 2.1 above,
 - (b) That no action needs to be taken in respect of the matters which are the subject of the investigation
 - (c) That any matter which is the subject of investigation can be remedied by compliance with any recommendations which are made in the report of the investigation

- (d) That there is evidence of a failure on the part of a Councillor in relation to any of the matters referred to in paragraph 2.1 above in which case, with the exception of a matter in respect of which a criminal offence may have been committed, the report of the investigation will be submitted to the Council which will consider what action, if any, should be taken. The Monitoring Officer shall, at the same time, provide a copy of his report to the Council to the Standards Committee
- (e) That there is evidence of a failure on the part of a person, who is not a Councillor but has been appointed or co-opted to any Committee or Sub-Committee or Policy Development Group of the Council, in relation to any of the matters referred to in paragraph 2.1 above in which case, with the exception of a matter in respect of which a criminal offence may have been committed, the report of the investigation will be referred to the Council's Standards Committee which will consider what action, if any, should be taken.
- (f) That there is evidence of a failure on the part of an Officer of the Council in relation to any matter referred to in paragraph 2.1 above, in which case the report of the investigation will be referred to the Chief Executive who will determine what action, if any, should be taken.
- (g) That there is evidence of a systematic or procedural failure on the part of the Council in relation to any matter referred to in paragraph 2.1 above, in which case the report of the investigation will be referred to the Chief Executive and /or the Council to determine what action, if any, should be taken.
- (h) That otherwise the matters which are the subject of the investigation should be referred to the Council's Standards Committee.

5.4 For the purpose of conducting an investigation in terms of this Policy, the Monitoring Officer –

- (a) May conduct the investigation personally, or may authorise another person to do so
- (b) May obtain information from such persons and in such manner, and make such enquiries, as she/he thinks fit
- (c) May require any Officer or Member to provide such information or explanation as may be necessary for the purpose of conducting the investigation
- (d) Must give any person who is the subject of any allegation which is being investigated the opportunity or opportunities to respond to and comment on any allegation and must, in the course of any interview, allow that person to be accompanied by any other person
- (e) May require any Officer or Member holding or accountable for any document or record (held in any medium) relating to the investigation to give access to such document or record.
- (f) May, to assist the investigation, obtain advice from any person inside or outside the Council who is qualified to give it.

5.5 A copy of any report of any investigation must be given to any Member or Officer of the Council who is the subject of the report before the report is finally disposed of by the Monitoring Officer as set out in paragraph 5.3 above.

6.

CONSIDERATION OF REPORTS BY STANDARDS COMMITTEE

- 6.1 In considering any report brought before it in terms of Paragraph 5.3(d), the Standards Committee may provide to the Council any advice or any recommendation it considers appropriate.
- 6.2 In considering any report brought before it in terms of Paragraph 5.3(e) the Standards Committee will –
- (a) Provide the opportunity for any person, together with any other person whom they wish to accompany or represent them, to appear before the Committee;
 - (b) Hear oral or consider written evidence from persons who may have provided evidence in the course of the investigation, and any other witnesses whom either the person concerned or the Standards Committee consider it desirable to hear or receive evidence from;
 - (c) Consider such written documents as may be brought before them, including any so brought by the person concerned, or any other document which the Committee considers it necessary and appropriate for them to consider.

The Standards Committee will hold any hearing(s) in private unless the person concerned requests that it be held in public.

7. DECISIONS AND RECOMMENDATIONS OF STANDARDS COMMITTEE

- 7.1 The Standards Committee shall decide whether or not there has been a failure on the part of any person who is the subject of a report in terms of Paragraph 5.3(e), with the exception of a matter in respect of which a criminal offence may have been committed until any criminal proceedings have been disposed of.
- 7.2 Where the Committee decides that there has been no such failure on the part of any such person it will give notice to that effect to the person concerned.
- 7.3 Where the Committee decides that there has been such a failure as is mentioned in Paragraph 7.1 above, the Committee must decide, having regard to the Statutory authority or basis on which that person has been nominated, appointed or co-opted , whether the nature of the failure is such that either –
- (a) The Committee is to advise the person concerned that there has been a failure on his or her part, and specify the details of that failure; or
 - (b) Submit a report to Council, which report will be considered in public, advising that there has been a failure on the part of such a person concerned, specifying the details of that failure, which report may include a recommendation that any one of the following courses of action should be taken by the Council –
 - (i) That the person concerned be afforded the opportunity of apologising to the Council in respect of the failure; or
 - (ii) That the person concerned should be the subject of a resolution of censure expressing the Council's disappointment that there has been a failure on the part of such a person concerned; or
 - (iii) That the Council remove the person concerned from any one or more positions to which the person was appointed by the Council or any of its Committees or Sub-Committees, and/or that the person be removed from membership of any one or more Committee, Sub-Committee, or Policy Development Group of the Council;

(iv) That the Council request the persons nominating or appointing body to remove or withdraw their nomination or appointment and remove that person from any Committee, Sub-Committee, or Policy Development Group of the Council;

7.4 Before submitting a recommendation in terms of paragraph 7.3(b) to the Council, the Standards Committee will provide a copy of their report, including any recommendation contained in it, to the person concerned.

7.5 In considering a recommendation in terms of paragraph 7.3(b) the Council will afford an opportunity to the person concerned to make a statement to the Council, and it will not be open to the Council to pass a resolution which would, in respect of the person concerned, be more onerous than the course of action recommended by the Standards Committee.

APPENDIX 3 to Anti Fraud Strategy

Prosecution Policy

The Council is committed to preventing fraud and corruption and has developed an 'Anti-Fraud Strategy' in order to minimise its occurrence. The Council will constantly monitor its systems and amend procedures as required.

This procedure does not supersede other internal disciplinary codes implemented by the Council and internal offenders (eg Council employees or Councillors) will be liable to general disciplinary procedures as well as prosecution.

General

The Council's policy on fraud is to:

- deter it in the first instance
- detect it quickly
- investigate it efficiently
- prosecute offenders when appropriate

Ultimately the decision to refer a matter to the Police will lie with the Chief Executive, who will consult with the Director of Corporate Services and Director within whose department the fraud or corruption is alleged to have occurred to consider if reporting the matter to the Police is appropriate. In exceptional circumstances the Director of Corporate Services may refer matters to the Police direct without prior consultation with the Chief Executive.

In deciding whether a fraud should be reported to the police the following factors will be taken into account.

- the extent of the fraud/corruption in financial terms
- the sufficiency and appropriateness of evidence
- whether the public interest will be served

In general, all cases will be reported to the Police.

Housing Benefit and Council Tax Benefit Fraud

To assist staff involved in this area, specific procedural guidelines have been established.

(See Appendix 5).

Housing Benefit and Council Tax Benefit Security Strategy and Referral Policy

Fraud Detection and Prevention

1. Argyll and Bute Council is fully committed to ensuring that Housing Benefit and/or Council Tax Benefit is awarded only to those claimants who have an entitlement and that reasonable procedures and processes are in place to verify the circumstances of claimants before making any awards.
2. The Council is committed to developing and implementing measures to prevent and detect benefit fraud.
3. The Council has invested resources in establishing a team of Benefit Inspectors dedicated to the identification, investigation and prevention of benefit fraud. That team will work with and, where appropriate under the terms of the Data Protection Act, make use of information available from other agencies such as the Benefits Agency, Department of Works and Pensions, Inland Revenue as well as other departments of the Council to detect and prevent benefit fraud.
4. All Council staff involved in the administration of benefits will periodically be given fraud awareness training with a view to them having a role in the identification of potentially fraudulent claims which must be passed to the team of Benefit Inspectors for investigation.
5. The Council recognises that the submission of incorrect or incomplete information by an individual or individuals in order to fraudulently obtain benefit is a criminal offence and that consideration will be given to preparing cases for submission to Strathclyde Police or direct to the Procurator Fiscal's Office for prosecution.
6. Where payments of benefit have been considered as having been fraudulently obtained the Benefits Manger, in consultation with the Head of Legal Services, will consider whether the case should be referred to Strathclyde Police or direct to the Procurator Fiscal's Office. In considering further action the following criteria will be referred to:
 - a) A good prima facie case been established
 - b) That there is sufficient evidence of false information
 - c) That there is sufficient evidence of criminal intent
 - d) There is a clear record of the investigation:
clear reports have been compiled at every stage in the investigation
all information provided by external sources has been recorded in a manner which is acceptable as evidence
supporting documentary evidence has been obtained
all information has been obtained fairly.

After considering the above the following criteria will be applied;

If an overpayment is established, and it appears that

- The claimant has never previously offended; and
- There was no planning involved in the process; and
- There was no other person involved in the process; and
- The person is in genuine financial hardship; and
- The person is perceived to be a vulnerable person i.e. a single parent, a pensioner, or is in need of Social Services assistance.

Then :-

- Under £500.00 a Local Authority Caution will be issued;
- Over £500.00 but under £1000.00 a penalty amounting to 30% of the value of the overpayment will be offered;

If the overpayment is under £1000.00, and it appears that

- The claimant has never previously offended; and
- There was no planning involved in the process; and
- There was no other person involved in the process; and
- The person is in genuine financial hardship, but not perceived to be a vulnerable person.

The Council will offer a penalty equivalent to 30% of the value of the overpayment. If this option is turned down, the Council will prosecute.

If the overpayment is over £1000.00, or

- The claimant had previously offended; or
- There was planning involved in the process; or
- Other people were involved in the process;

The Council will refer the case to the Procurator Fiscal.

Administrative Penalties

7. The Council will consider financial penalties, as an alternative to a criminal prosecution, in cases where the criteria for prosecution have been fulfilled but the offender's personal circumstances indicate that a financial penalty would be a suitable solution.

8. This provision is in accordance with the Social Security Administration (Fraud) Act 1997 which allows the Authority to administer a penalty (currently 30% of the amount of benefit fraudulently obtained). The Council will recoup the administrative penalty payments in addition to any repayments of the overpaid benefit.

9. If the financial penalty is not accepted by the offender as the alternative remedy, then the matter will be referred back for pursuit of a criminal prosecution as will any case where a claimant had agreed to pay an administrative penalty but subsequently fails to keep to the agreement.

10. Any identified case of benefit fraud which involves an Employee of the Council will, in addition to the actions outlined above, also be the subject of the Council's Disciplinary Procedures. In such instances, the case will be brought to the attention of the Director of the department in which the employee is employed in which the who shall consider what steps are necessary in the investigation and disciplinary process.

11. Any identified case of fraud which involves a Member of the Council will be referred immediately to the Chief Executive and the Director of Corporate Services who, as Monitoring Officer will refer the matter to the appropriate authorities.

12. It will be the responsibility of the Benefits Manager to advise the relevant persons, in terms of paragraphs 10 and 11 above immediately it becomes apparent that a fraudulent act may have been committed by an Employee or Member of the Council.

13. The Council will ensure that all persons who are the subject of an investigation into suspected benefit fraud will be treated fairly and courteously at all times.

14. In line with the expectations of the Department of Work and Pensions (DWP), councils must develop procedures and strategies to combat the perpetration of fraud within the Benefits system. For this purpose the Benefits Team has produced a Housing and Council Tax Benefit Security Strategy, which outlines the measures put in place to minimise the occurrence of Benefit fraud. The key elements are as follows.

Verification Framework

The Benefit Section adhere to the requirements of the Verification Framework, a DWP initiative, which is in place to ensure accurate information is obtained from a claimant prior to the

assessment of entitlement. The council employs staff to visit claimants, to check the information on their claim forms, in line with the specifications of the Verification Framework, and receives funding for carrying out this extra work.

Fraud Referral Policy

The Housing and Council Tax Fraud Referral Policy is the framework to be followed when considering referral to the Procurator Fiscal. It specifies the situations and the monetary value of any fraudulently claimed benefit which would be involved before a case would be considered for referral to the PF.

Royal Mail Redirect Service

Housing Benefit cheques, when issued to claimants or landlords, are sealed in specially formatted stationery, which indicates to the Royal Mail that the document should be returned to the council, if the addressee is not resident, and not redirected as with most other mail.

Housing Benefit Matching Service

The Benefits Section supplies copies of the benefit computer files to the DWP Matching Service quarterly, and a comparison is made with the DWP computer files. It is normally a specific type of income which is targeted each time, for example pensions from former employers.



..... 2005

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ARGYLL & BUTE COUNCIL

CONTRACT STANDING ORDERS

1. COMPLIANCE

1.1 Every contract made by or on behalf of the Council will comply with these Standing Orders except as otherwise provided in Standing Order 12.

1.2 *It is the duty of each Director to ensure that these Standing Orders and any other more specific operating instructions approved by management, are complied with and to ensure that all employees and agents of the Council are made aware of them and comply with them.*

1.3 *Each Director shall ensure that for any contracts not covered by these Standing Orders there shall be a set of established and documented transparent instructions which adheres to the principles of these Standing Orders, to regulate all such transactions including obtaining competitive quotes, selection of tenders etc.*

2. SELECT LIST - WORKS

2.1 For civil engineering and building works in excess of £25,000 tender lists should be compiled, on each occasion from firms registered with Constructionline and contained on their database.

2.2 In respect of all other works contracts the relevant Director will maintain select lists of contractors/ who may be drawn from Constructionline or who may have indicated a willingness to tender for relevant work. The existence of the lists will be advertised in the local press and appropriate trade journals at intervals not exceeding 3 years, in order that interested contractors may indicate their willingness to be considered for inclusion in any list, but an interested contractor may be added to a list at any time. Evidence of compliance with this standing order must be provided annually in March of each year to the Head of Strategic Finance.

2.3 No contractor will be included on the list specified at 2.2 unless -

a) They are registered with Constructionline or

1. Where the contractor is not registered with Constructionline the appropriate Director is satisfied that the contractor has the expertise and resources to undertake the work for which the contractor wishes to be considered; and
2. the Head of Strategic Finance is satisfied as to the contractor's financial standing; and
3. The Council's Health and Safety Manager is satisfied in respect of their competence in Health and Safety matters

b) The relevant Head of Service has ensured from time to time and in any event at intervals of no longer than 3 years that the contractor still meets the criteria

detailed at (a) above.

- 2.4 Each contractor on a select list will as required by the Head of Strategic Finance, submit a copy of the audited accounts together with any other information pertinent to the management and operation of the company as the Head of Strategic Finance or the relevant Director may require.

3. **SELECT LIST - SUPPLIES AND SERVICES**

- 3.1 Any Service which purchases goods or services shall do so in compliance with the Council's Procurement Strategy, which is attached hereto as appendix 1 and in so doing shall;

1. When purchasing goods or services for which the Authorities Buying Consortium has entered into a specific arrangement, use those arrangements for "endorsed products".
2. When purchasing goods or services which are not "endorsed" products, in terms of the Authorities Buying Consortium, then they may utilise the Authorities Buying Consortium or any other collaborative purchasing arrangement which the Council may have entered into from time to time.
3. Any Service will, when products or services are contained in the Council's E-procurement Scotland Catalogue, purchase such products or services utilising that catalogue.
4. In any other circumstances not covered by the above any service will when purchasing goods or services utilise the Authorities Buying Consortium in the first instance and otherwise will maintain a list of approved suppliers who have indicated a willingness to tender for the supply of such goods or services and they must be satisfied that such suppliers are reputable and of appropriate financial standing.

4. **TENDERING PROCEDURES - OBTAINING TENDERS**

- 4.1 Subject to these Contract Standing Orders and to any overriding requirement of any relevant European Union Procurement Directive, (service, suppliers and works) including the requirement to advertise contracts above a value specified in those directives in the Official Journal of the European Union, the Local Government Local Government in Scotland Act 2003, the Local Government Act 1988 and the Public Procurement Regulations (as amended), and any amendment, revision or repeal thereof, no contract for civil engineering works, building and construction works, the purchase of goods or materials, the provision of services, or the hire or purchase of plant or vehicles or equipment, will be made unless either -

- (a) Ad Hoc Tenders - at least 10 days public notice has been given in one or more appropriate newspapers and in such trade journal as the relevant Director considers appropriate, stating the nature and purpose of the contract, inviting contractors to indicate an interest in tendering and stating the last date when

tenders will be received; or

- (b) Select List of Contractors - where a sufficient number of contractors is included in a Select List, tenders are invited from all or as many of these contractors as the relevant Service Director considers reasonable to ensure adequate competition; or
- (c) Serial Tenders - the proposed contract forms part of a serial programme of work, the terms having been negotiated with the contractor on the basis of the rates and prices contained in an initial contract awarded competitively, and provided that the initial tender was stipulated to be the first part of a serial programme; or
- (d) Consortia Arrangements - where the Council is a member of a consortium, collaboration or similar body which exists for the purposes of joint purchasing arrangements, and such body has invited tenders for the supply of goods or services, or vehicle procurement the Council may treat the arrangements entered into by that body as a tender required by these Contract Standing Orders.

- 4.2 Prior to inviting a tender for Civil Engineering or Building Works or the provision of any goods or services Officers will ensure that they comply with any statutory requirements and any relevant European Union Directive and with the terms of paragraph 8.11 of the Council's Financial and Security Regulations
- 4.3 To ensure compliance with EU Directives; EU threshold values; contract types and allied matters, the advice of the Councils European Funding section under the Director of development Services should be sought.

TENDERING PROCEDURES - RECEIPT AND CUSTODY OF TENDERS

- 5.1 Where tenders are invited, the Service concerned will notify prospective tenderers of the place to which and the time by which tenders are to be submitted and will at this time notify the Director of Corporate Services of the instruction to tender and return date. The Service shall ensure that sufficient time is given from the date of issue to date of return to ensure that tenders can be in appropriate form and should in normal circumstances not be less than seven days. Tenders will be submitted in a plain envelope or package securely sealed and will bear the word "Tender" followed by the subject to which the tender relates and prospective tenderers will be notified accordingly by the Service inviting the tenders. The envelope or package will be addressed impersonally to the Director of Corporate Services, in the case of tenders where the estimated cost is £100,000 or more and to the Director of the relevant Service in cases below that amount. All tenders will, as soon as they are received, be endorsed with the date and time of receipt at the office of the Director of Corporate Services or the relevant Service Director as the case may be and will be kept secure until opened.

Where an electronic tendering system is being used, the provisions of paragraph 5.1

- hereof shall apply mutatis mutandis except that tenders will be submitted to the electronic address specified by the Service inviting the Tenders and the system shall maintain an audit record of the date and time of receipt of tenders and shall provide that tenders received will not be capable of being opened except under the provisions of paragraph 6.1 hereof.
- 5.2

6. TENDERING PROCEDURES - OPENING OF TENDERS

- 6.1 Where the estimated cost is £100,000 or more, tenders will be opened **physically or electronically** by two officers appointed respectively by the Director of Corporate Services and the Head of Strategic Finance in the presence of one Member as soon as possible after the closing date and within one working day thereof. Where the estimated cost is below that amount, tenders will be opened by two officers, one from the relevant Service and one from Corporate Services, or Strategic Finance, and which failing from another Department. Tenders will be opened at one time as soon as practicable after the time and date specified for the return of tenders. No person who has a direct or indirect interest may attend the opening of tenders.
- 6.2 Immediately after a tender has been opened, the tender document will be signed by those opening the tenders, and such pages of it as are considered relevant will be suitably marked. **In respect of an electronic tender, an audit record will be maintained of the tender opening and the system will be required to prevent any amendments to the tender document after opening.**
- 6.3 Those opening the tenders will complete and sign all tender record sheets received at the time of opening, stating the name of the tenderer and the value of the tender or that it is a schedule of rates and shall adhere to any department or corporate guidance on how this should be undertaken.
- 6.4 Tender record sheets shall be in a form or forms approved of from time to time by the Director of Corporate Services.

7. TENDERING PROCEDURES - LATE TENDERS

- 7.1 Any competitive tender received after the time specified for the receipt of tenders will be rejected and will be returned promptly to the tenderer, and for that purpose only may be opened to ascertain the name of the tenderer but no details of the tender will be disclosed.
- 7.2 Except as otherwise provided in these Standing Orders and subject to the Freedom of Information (Scotland) Act 2002, and the Financial and Security Regulations, during the period between the opening of the tenders and the decision being made to accept any Tender an absolute obligation of preserving secrecy as to any tender amount, prices or rates will rest with Members and employees.

8. TENDERING PROCEDURES - CORRECTIONS AND ASSESSMENT

- 8.1 The appropriate Director, or an Officer or Agent appointed by the Director for that purpose, will examine not fewer than the three lowest tenders (provided these three

are within 10% of the lowest price, failing which only the lowest two tenders) for arithmetical errors and correct the errors where necessary. If there are substantial errors in any of these then the other tenders, in ascending order of price, as tendered, will be examined likewise.

8.2 The three (or two) lowest Tenders as amended utilising paragraph 8.1, herof will then be examined for the purpose of identifying technical, professional and other non-arithmetical errors in order to establish the tender representing best value for money. For this purpose the following procedure will apply -

(a) building works - the examination of tenders will be carried out in accordance with the principles of the Code of Procedure for Single Stage Selective Tendering published for the National Joint Consultative Committee for Building in force for the time being;

(b) civil engineering works - the examination of tenders will be carried out in accordance with Part 5 of Guidance on the Preparation, Submission and Consideration of Tenders for Civil Engineering Contracts produced by the ICE Conditions of Contract Standing Joint Committee in force for the time being;

(c) goods and services - the examination of tenders will be carried out in accordance with the principles of ensuring equity of consideration in terms of price, quality, fitness and appropriateness for the purpose.

8.3 Where the tender is in the form of a schedule of rates without quantities, the value of the tender will be the total amount estimated to be paid to the tenderer in the twelve months following acceptance of the tender. When such tenders are being appraised, the basis of comparison will be determined by applying the rates tendered to the estimated quantities which are intended to be supplied.

8.4 The basis of the cost or any other factor of comparison such as quality will be determined prior to the tenders for any contract being opened.

8.5 If the value of the lowest tender exceeds the budgeted sum then, subject to the provisions in the Council's Security and Financial Regulations in relation to virement, the Director concerned will report to the SPC with his proposals as to whether to accept the tender and how to finance it or seek authority to re-tender.

8.6 Where such factors other than cost are assessed the basis and criteria of such assessment will be recorded and retained with the tender record opening sheets. The Tender to be accepted shall be accepted in accordance with such criteria.

9. TENDERING PROCEDURES - ACCEPTANCE

9.1 The following persons or Committees are authorised to approve the acceptance of tenders on behalf of the Council.

(a) Subject to sub-paragraph (b) below, the Director of Service concerned;

(b) the Strategic Policy Committee where it is proposed to accept a tender other

than the **most economically advantageous** and the contract value exceeds £100,000.

10. **TENDERING PROCEDURES - CONTRACTS TO BE IN WRITING**

10.1 Tenders which are approved for acceptance will be accepted under the hand of the appropriate Director if the proposed contract is under £100,000, and otherwise under the hand of the Director of Corporate Services.

10.2 Every contract will be in writing and will specify:

- (a) the work, materials, matters or things to be provided, had or done, (including any appropriate technical specifications(s));
- (b) the price to be paid with a statement of discounts or other deductions, together with the arrangements for payment, including any retentions;
- (c) the time or times within which the contract is to be performed, including any penalties for non-compliance;
- (d) any other relevant matter relating to the due performance of the contract.

11. **TENDER REGISTER**

11.1 The Director of Corporate Services will maintain a register of all tenders received in respect of contracts where the amount or value of the contract is estimated to be £100,000 or more

11.2 Each Director will maintain a register of all tenders received in respect of contracts where the amount or value of the contract is £50,000 or more but less than £100,000.

11.3 The register referred to in paragraphs 11.1 and 11.2 above will contain in respect of each contract the Tender Record Sheet comprising:

- (1) The name of the contract and/or any identifying code or number;
- (2) The closing date and time for the receipt of tenders;
- (3) The name of each contractor issued with tender documents;
- (4) The name of each contractor who submitted a tender (whether or not the tender was subsequently held to be invalid) by the closing time;

- (5) The amount of each tender as noted at the opening of tenders or where the tender is based on a schedule of rates an entry to that effect.
- (6) Where factors other than cost are assessed the basis and criteria of such assessment.

and any other information which the Director of Corporate Services may specify.

- 11.4 The registers will be open for inspection by any Officer who requires to audit any matter relating to any contract and by any Member (other than one who might have an interest in a contract in respect of the entry relating to that contract).

12. EXCEPTIONS TO TENDERING PROCEDURE

- 12.1 Nothing in these Contract Standing Orders will require competitive tenders to be invited in the following circumstances always provided that when competitive tenders are not sought, the Director of Service must ensure that value for money is obtained and that the arrangements can be shown to be conducted in the best interests of the Council.

- (a) the amount or value of the contract does not exceed £50,000 and in such cases the Director of Service concerned will have discretion as to the extent to which the tendering procedures set out in Contract Standing Orders 4 to 7 will be applied.
- (b) where the Contract is for the hire, negotiated purchase or the purchase at auction of a vehicle/item of plant where the price does not exceed £150,000 in respect of any one item and where it is in the interests of the Council to secure the vehicle/plant at short notice.
- (c) the Director of Service concerned deems it desirable to negotiate with a Council Service, subject always to the provisions of the Local Government Planning and Land Act and other relevant legislation. For works estimated to be below £25,000, at least three quotations in writing be sought and the lowest accepted, except that the appropriate Chief Officer may accept a single quotation if it is the only one submitted.
- (d) in the case of contracts for the supply of goods or materials of a proprietary nature, or a proprietary process -
 - (i) these are sold only at a fixed price and no reasonably satisfactory alternative is available; or
 - (ii) the prices are wholly controlled by a trade organisation or Government Order and no reasonably satisfactory alternative is available; or
 - (iii) for other good and sufficient reasons, there would be no genuine competition.

- (e) in relation to the procurement of Care (whether or not including the provision of education) Services for any adult or child –
 - (i) where service for an individual whose care needs cannot, in the opinion of the Director of Service concerned, be met by an existing contract, up to a value of £50,000 for a period not in excess of six months, during which the provision of those services will be brought within the contracting arrangements set out otherwise within these Standing Orders:
 - (ii) where in the opinion of the Director of Service concerned, the needs of an individual would be best met by a particular provider, and where there is only one provider capable of delivering this service to meet the needs of that individual, and where the nature of the service to be provided is such that it could not reasonably be adequately specified in advance because of the nature of the needs of that individual, the Director of Service concerned is authorised to negotiate the provision with an authorised provider.
- (f) the contract is for the execution of work or the supply of goods to meet any immediate need created by a sudden emergency subject to advising the Chief Executive and to reporting to the Strategic Policy Committee as soon as possible in respect of items which would otherwise require to be reported in terms of these Standing Orders;
- (g) tenders will have been invited by or on behalf of any consortium, collaboration or similar body, of which the Council is a member, in accordance with arrangements or procedures adopted by that body;
- (h) the Council is bound by the terms of any agreement, by insurance requirements or by the terms of a warranty to use a specified contractor;
- (i) in the case of tenders for specialised work (including the supply and installation of specialised equipment) where the appropriate Director considers it in the best interests of the Council that tenders be invited for the execution of such work from a contractor or contractors selected, or negotiated with a contractor or contractors already engaged by the Council.
- (j) where, in order to secure Best Value, the relevant Director considers it in the best interests of the Council to negotiate and conclude a contract with such existing contractors carrying out Housing & Property term maintenance work as the relevant Director may deem appropriate.

12.2 The provisions in relation to the receipt and acceptance of tenders in paragraphs 5 to 9 hereof will not apply to tenders for sub-contracts invited by a Direct Labour Organisation of the Council which form part of a competitive tender, but all other provisions of these Standing Orders will apply.

13. **ASSIGNATION**

13.1 In every contract for the execution of work or the supply of goods, materials or services, the following clause will be inserted -

The Contractor is prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of the contract without the written permission of the Director of Service, or an officer authorised by that Director. Sub-letting of any part(s) of the work, except to the extent permitted in writing by the officer authorised, is prohibited.

14. **LIQUIDATED DAMAGES**

14.1 A contract which is estimated to exceed £100,000 in value or amount, and is for the execution of works or the supply of goods or materials by a particular date or series of dates may provide for liquidated damages which will be determined by the appropriate Service Director.

14.2 Where completion of a contract is delayed beyond the contract period, it will be the duty of the Director concerned to take appropriate action in respect of a claim for damages due under the terms of the contract

15. **PERFORMANCE BONDS**

15.1 Where a contract is estimated to exceed £250,000, or in exceptional cases is for the execution of works or for the supply of goods or materials by a particular date or series of dates, the Director of Service concerned will consider whether the Council should require security for due performance and will either certify no such security is necessary or will specify in the conditions of tender the nature and the amount of the security to be given. In the latter event, the Director of Corporate Services will require and take a bond or other sufficient security for the due performance of the contract.

16. **INDEMNITIES**

16.1. All contracts will specify that the contractor will be required to indemnify the Council against -

(a) any claim which may be made in respect of Employers Liability against the Council or the Contractor by any workers employed by the contractor or any sub-contractor in the execution of the works; and

(b) any claim for injury or damage to the persons or property of third parties;

and the contractor will, when required by the relevant Director produce satisfactory evidence that there is Employers Liability and Public Liability insurance against any such claims.

17. **SPECIFICATION AND STANDARDS**

- 17.1 All tenders for the execution of works or the supply of goods, materials or services will be based on a definite specification appropriate to the requirements of the proposed contract.
- 17.2 All contracts, where a specification issued by the Agrément Board of the European Union or by the British Standards Institution or any other equivalent standard of any other EU state is current at the date of the tender and is applicable will require, as a minimum, that goods and materials used in the execution of the contract will be in accordance with that specification.
- 17.3 All contracts will contain provision for the compliance with all current Health and Safety legislation and Services will satisfy themselves as to the arrangements in place in this respect.

18. **PREVENTION OF FRAUD**

- 18.1 In every contract a clause will be inserted to secure that the Council will be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation -
- if the contractor has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or for not doing or having done or not having done any action in relation to obtaining, or the execution of, the contract or any other contract with the Council, or for showing favour or disfavour to any person in relation to the contract or any other contract with the Council.
 - or if the like acts have been done by any person employed by the contractor or acting on the contractors behalf (whether with or without the knowledge of the contractor).
 - or if in relation to any contract with the Council, the contractor or any person employed by, or acting on the contractor's behalf, (whether with or without the knowledge of the contractor) will have committed any offences under the Prevention of Corruption Acts, or will have given any fee or reward the receipt of which is an offence under Section 68 of the Local Government (Scotland) Act 1973.

19. **APPOINTMENT OF NOMINATED SUB-CONTRACTORS**

- 19.1 Where a contract provides for the appointment of a nominated sub-contractor or supplier for the execution of work or the supply of goods or materials, and is considered necessary to invite tenders then the following provisions will apply -
- (a) tenders will be invited and processed in accordance with Contract Standings Orders 4 to 11;

- (b) the **most economically advantageous** tenderer will be nominated as the sub-contractor or supplier unless consent has been obtained from the Strategic Policy Committee or the relevant Director as appropriate to the acceptance for some good and sufficient reason of a tender other than the lowest in accordance with Standing Order 9.

20. **ENGAGEMENT OF CONSULTANTS**

- 20.1 It will be a condition of the engagement of the services of any architect, engineer, surveyor or other consultant who is to be responsible to the Council for, or to be involved in, the process of obtaining or assessing tenders, or for the supervision of a contract on the Council's behalf, that in relation to that contract they will -
- (a) comply with these Contract Standing Orders, subject to the modification that the procedure to be followed in inviting and opening tenders will be approved in advance by the Director of Corporate Services.
 - (b) at any time during the carrying out of the contract, produce to the appropriate Director (or authorised officer) on request, all relevant records in relation to the contract; and
 - (c) on certified completion of a contract by the consultant, transmit appropriate records to the Director concerned.

21. **FINAL CERTIFICATE**

- 21.1 The final certificate of payment of a contract should not be issued until there has been approved by the Director, or nominee under arrangements approved by her/him, a detailed statement of account, with all vouchers and documents as may reasonably be required, relating to prime cost items and particulars, deductions, omissions and price variations.

22. **CONTRACT PAYMENTS AND OTHER PROVISIONS**

- 22.1 Where contracts provide for payment to be made by instalments, arrangements will be made by the appropriate Director in consultation with the **Head of Strategic Finance**, for keeping a contract register to show the state of account on each contract between the Council and the contractor together with any other payments and related professional fees.
- 22.2 Payments to contractors by instalment, or on account, will be made only on a certificate issued by the appropriate Director (or other authorised officer) or by a consultant engaged by the Council for the purpose of supervising the contract.
- 22.3 Subject to the provisions of the contract, in each case, every extra or variation will be authorised in writing by the appropriate Director (or other authorised officer) or by a

consultant engaged by the Council for the purpose of supervising the contract.

22.4 All such extras or variations will, in respect of contracts where the contract value exceeds £100,000 be reported to the Strategic Policy Committee as soon as practicable if the cumulative effect of these is to increase the value of the contract by 10%.

22.5 Claims from contractors in respect of matters not clearly within the terms of any contract will be referred to the Director of Corporate Services for consideration of the Council's liability and, where necessary, to the Head of Strategic Finance in respect of any significant financial consideration before a settlement is reached.

23

CONTRACT TERMS AND THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002.

23.1 In agreeing contract terms Directors shall have regard to the terms of the Freedom of Information (Scotland) Act 2002 and should refuse to accept provisions in the contract which resist the disclosure of information held, or to be held, by the Council and relating to the contract. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, agreement should be reached in relation to the constitution of a schedule to the contract identifying information which should not be disclosed and information which may be released.

24.

MONITORING AND REVIEW

24.1 The Director of Corporate Services will keep under review from time to time the contents of these Standing Orders, as determined by the Council.

Appendix 1

The Purpose of the Strategy

The development of this strategy is aimed at ensuring that the Council buys the goods and services it needs in the most economically advantageous manner, while according with the overall aims and objectives of the Council. This recognises the importance of a procurement strategy towards meeting the Council's statutory duty of best value.

The strategy outlines the principles the Council will adhere to in carrying out all of its procurement activities. Those are in accordance with the organisation's overall ethos of conducting business by fair and lawful practices, with transparency a key factor in every transaction.

The structure adopted by the Council for carrying out procurement is designed to be cost effective and capable of responding to the dynamic purchasing environment now existing within the Scottish Public Sector. The light structure operating at a corporate level acknowledges the support provided to the Council by the Authorities Buying Consortium. It also allows the Council to build on its core strengths in purchasing at present; the knowledge of the existing buyers in both the geographical environment in which they operate and the requirements of the operations they are involved with.

Argyll and Bute Council recognises the value of existing relationships with suppliers and contractors and the strategy seeks to begin the process of documenting and strengthening those relationships. Local businesses in particular have a valuable role in supporting the work of the local authority and the strategy is aimed at removing barriers to those, often smaller companies, providing best value to the Council.

There is a solid base of sensible purchasing within the Council at present and many examples of best practice exist. It is important that those areas are strengthened and that the knowledge possessed by the few is communicated to the many.

The Layout of the Strategy

1 Principles

The basic tenets of how the Council intends to conduct its procurement.

2 Purchasing Environment

Procurement within the Scottish Public Sector is presently being influenced by collaborative initiatives, Scottish Executive initiatives, and EU legislation.

3 Social and Environmental Well being

This covers the steps the Council will take as it conducts its procurement activities with proper regard for Social Inclusion, Race Equality and Equal Opportunities as well as environmental issues such as product sustainability and recycling.

4 Procurement Structure

How the Council is structuring its own procurement function, including the levels of training for staff for who it is not their main activity.

5 Supplier Relationships

Outlining the nature of the relationship the Council intends to develop with suppliers and contractors, and describing the categories the Council will adopt.

6 Procurement Information

The Council's approach to publishing information on procurement, taking cognisance of the requirements of the Freedom of Information Act.

7 eProcurement Strategy

The Council has joined the eProcurement Scotl@nd service. The strategy for installing this service for all of the Council's buying and the thinking behind the implementation chosen.

8 Key Objectives

This takes the form of a table detailing the key objectives the Council intends to achieve as the strategy is put in place.

1 Procurement Principles

Nine procurement principles have been identified as follows:

- 1.1 Procurement should be a viable tool in the promotion of the Council's Goals and Values and in delivering the aims and objectives contained within the Corporate Plan.
- 1.2 Procurement will be carried out under the terms of the Council's Standing Orders and will be guided by the detailed procedures for purchasing developed by the Council.
- 1.3 Procurement should be carried out in line with current legislation to deliver competition, sustainability, equal opportunities and ultimately best value for the Council. The process will be transparent and allow accountability.
- 1.4 Best Value will be achieved by obtaining Most Economically Advantageous Tender, taking into account full life costs and non – financial aspects of the purchase. Purchasing will be driven by desired outputs and results.
- 1.5 Providers should be able to meet the needs of the current and future needs of the Council and in arranging procurement, the needs of the local economy should be taken into account, as permitted by existing legislation and always in pursuit of best value.
- 1.6 Officers managing major contracts should be capable through qualification and experience, or have access to professional guidance, to be able to ensure the sound management and monitoring of contracts. The Council will provide sufficient training for all staff required to undertake procurement duties.
- 1.7 The procurement function should be carried out in an effective but streamlined manner, which delivers added value without duplication of effort.
- 1.8 For any procurement which involves the transfer of any staff currently employed by the Council, their future terms and conditions of employment shall, as far as is legally possible be protected by the Council.
- 1.9 Suppliers and contractors to the Council are part of the resources of the Council and are not adversaries. The Council will work to encourage continued participation in contracts by high quality bidders.

2 The Purchasing Environment

- 2.1 *Local Authorities in Scotland are operating in a purchasing environment that is governed by a number of factors.*
- 2.2 *The general economic situation will influence the availability of raw materials, manufactured goods and services and for individual commodities this can at times be influenced by the activities of the public sector.*
- 2.3 *The legislative environment is governed by the EU Procurement Directives, compliance with which impels a local authority into adopting a more organised and co-ordinated purchasing regime. The Public Sector Procurement Directive 2004/18/EC will come into force in Scotland on or before January 2006. To comply with this directive an authority needs to have an overall awareness of what it is buying and is likely to buy.*
- 2.4 *Guidance in Best Practice is available from two major reviews concerning procurement carried out during the last six years.*
- 2.5 *Rethinking Construction came from a report by the Construction Task Force chaired by John Egan in 1998. The Rethinking Construction initiative involves client organisations moving away from a concentration on lowest price and involves focusing instead on more sustainable partnership working with contractors. The programme has established tools to support performance measurement, benchmarking and continuous improvement.*
- 2.6 *The Byatt Report, Delivering Better Services for Citizens, was delivered in June 2001. Thirteen of the thirty-nine recommendations of the report were directed at the procurement function within an authority. The report found that procurement was largely driven by the annual budget and focused on short-term savings. It emphasised the need for authorities to develop a procurement strategy, which relates the procurement function to the overall aims and objectives of the authority and takes account of factors such as sustainability and includes consideration of broader objectives such as economic and social regeneration.*
- 2.7 *The development of a National Procurement Initiative is likely within the near future and will affect local authority procurement practices generally.*
- 2.8 *Argyll and Bute Council is currently a member of the Authorities buying Consortium, covering the twelve local authorities in the West of Scotland. The Council is aware of the benefits of continued membership, through both the buying power of the larger organisation and the access to a pool of professional procurement expertise.*
- 2.9 *Where appropriate the Council will consider the use of public sector framework contracts including those negotiated by the Scottish Executive, and the Office of Government Computing including S-CAT, G-CAT and GTC.*
- 2.10 *The Council continues to play a major part in the West of Scotland collaboration initiative, which seeks to widen the scope of the joint purchasing between the twelve Councils. This is seen as a model for an eventual wider collaboration in purchasing within the public sector in Scotland. The Scottish Executive is actively promoting the concept of collaborative buying and is supporting this through the Efficient*

Government Fund. Renfrewshire Council and Glasgow City Council have jointly submitted a bid on the Efficient Government Fund to obtain funding for further promotion of collaborative buying, and this council has indicated a willingness to participate.

2.11 *The Council will continue to monitor developments in England led through the Office of the Deputy Prime Minister which has seen the development of a number of Regional Centres of Procurement Excellence alongside the continuation of various local buying consortia.*

2.12 *The Council is also committed to the eProcurement Scotl@nd programme, supported by the Scottish Executive.*

3 Promoting Social and Environmental Wellbeing

3.1 *Argyll and Bute Council's procurement practices will reflect the Council's commitment to social inclusion, equal opportunities and Racial Equality.*

Social Inclusion

3.2 *The Council will work with organisations from the social sector to remove any barriers, real or perceived, which hinder the ability of those organisations to trade with the Council.*

3.3 *The Council will support trade with organisations committed to the employment of disadvantaged members of society as defined in the EU Procurement Directive.*

3.4 *The Council will strive to remove barriers to small and medium sized companies who wish to trade with the Council and will, within the overall framework of best value purchasing, seek to support local communities and local employment.*

Equal Opportunities

3.5 *The Council will require suppliers and contractors to trade in a manner that conforms to equal opportunities legislation*

Race Equality

3.6 *The Council will ensure that its procurement policies and practices support and promote race equality by;*

- *Insisting that suppliers to the Council share the Council's equality goals*
- *Taking account of equality considerations in our selection and tendering processes.*
- *Monitoring compliance by suppliers and contractors*
- *Ensuring staff involved in procurement are properly trained and aware of equality issues*
- *Including appropriate terms and conditions in tender documents*

Sustainability

3.7 *The Council will seek to procure goods and services from sources that meet the criteria of sustainability, either by requiring adherence to relevant assurance schemes or by specifying conditions that equate to those followed by existing schemes.*

3.8 *The Council will seek to remove barriers to local small businesses competing for work, in order to promote sustainability within the Council area.*

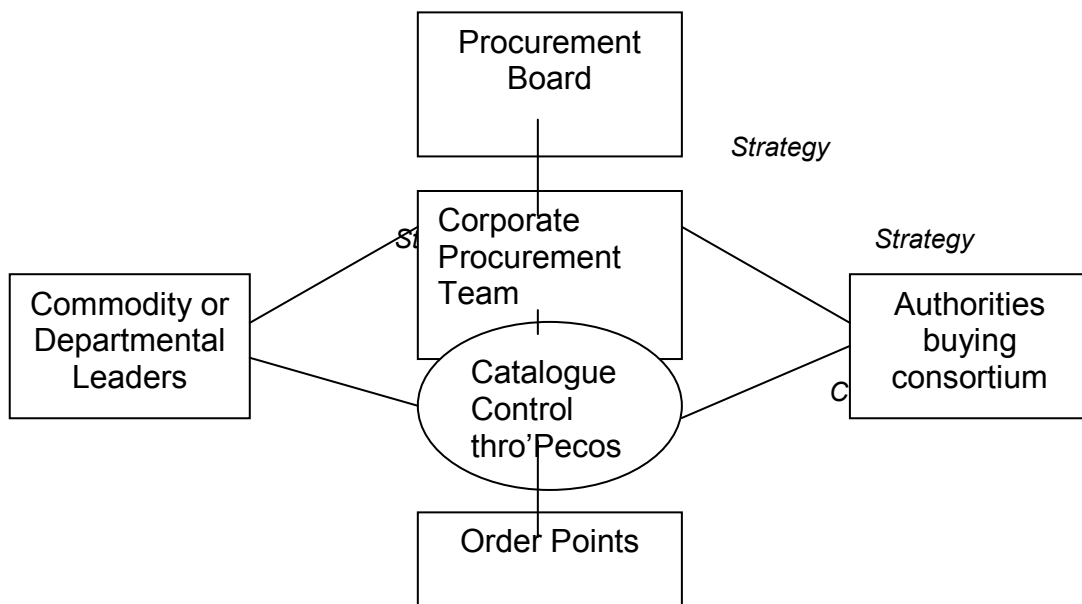
Use of Recycled Materials

- 3.9 *The Council will seek to encourage the use of recycled materials whenever these can be purchased at minimal or no extra cost and can be used without adverse effect on the service provided. A clause to this effect will be added to all tender documents and will form part of the evaluation criteria for tendered goods.*

“Promoting equality through procurement matters. All groups in our communities, whatever their ethnic origin, have a right to expect that public money is spent on local services which suit their needs – and that it is spent in a way which promotes equality of opportunity and delivers high quality goods and services.” **Commission for Racial Equality**

4 The Procurement Structure

- 4.1 *In organising the procurement structure, the Council wishes to harness the benefits of professional procurement expertise without losing operational and local knowledge from the sourcing and buying process.*



- 4.2 A network of procurement leaders will be established throughout the Council, concentrating on the main areas of buying. Departmental procurement leaders are drawn from staff whose main function involves a substantial buying role.
- 4.3 The Corporate Procurement Leader is a qualified purchasing officer, fulfilling a co-ordination role and continuing to develop a professional ethos within purchasing throughout the Council. They are responsible for developing corporate standards and guidance on procurement, for promoting collaborative buying, and procurement best practice aimed at maximising value to the council in all purchasing. As part of the co-ordination role, the corporate procurement leader will meet regularly with the departmental procurement leaders and representatives from Legal Services to ensure that there is a full sharing of knowledge on the legal and operational aspects of procurement within the Council. The corporate procurement team is also responsible

for the administration of the eProcurement system and the management of catalogue content.

- 4.4 The procurement roles are divided as detailed in the table below. This shows the split in responsibilities of the corporate procurement team and the responsibilities in departments for devolved procurement.

CORPORATE PROCUREMENT	DEVOLVED PROCUREMENT
Organising procurement of general services and goods used across Council services	Organising specialist procurement such as IT, civil engineering, educational supplies etc
Managing Council's role within West of Scotland Collaborative Initiative, and ensuring there is Council participation in commodity categories where there is a buying interest	Providing membership on relevant commodity groups established to develop the collaborative initiative
Making appropriate procurement training available within the Council to allow buying staff to acquire skills appropriate to their duties.	Attendance at training as required and ensuring that correct staff within services are allocated appropriate training when it is available
Identifying key suppliers to the Council and ensuring that arrangements are in place to manage the contracts that bind both parties	Taking roles as contract owners or attendance on authorities buying consortium user groups
Organising better buying initiatives for the Council	Identifying deficiencies in purchasing
Managing process of transfer from paper based systems to eProcurement	Ensuring contract changes are reflected in e-catalogues
Ensuring that Council tendering practice complies with EU rules	Ensuring that individual contracts do not breach EU Procurement rules
Ensuring that departmental staff are aware of, and apply contract standing orders in supplier selection	Managing restricted lists of contractors either internally or through organisations such as ConstructionLine

- 4.5 Training for staff involved in buying will be carried out at a level appropriate to the extent of each individual's involvement with the procurement process. This will range from attendance at CIPS and other courses for staff who carry out large scale purchasing activities to brief in-house training days for those with a lesser or small scale involvement. Training will be arranged to be complementary to professional skills, which staff may already possess.
- 4.6 All levels of training will include an appreciation of EU procurement rules, Argyll and Bute Council Standing Orders, Best Practice and Equal Opportunities, Social Inclusion and Race Equality policies.
- 4.7 The Council will also ensure, in order to minimise procurement risk, that all staff involved in project management receive proper training in project management skills suited to their sphere of operations.

“Local authorities should develop a corporate procurement function to collect management information, oversee devolved buying, co-ordinate training and act as an internal source of expertise.” **Byatt Report Recommendation No 5**

5 Supplier Relationships

- 5.1 The Council ascribes to the view that Best Value procurement is obtained through purchasing wherever possible from companies that hold a valid, competitively obtained contract with the Council or another body acting on behalf of the Council. Off-contract buying will therefore be eliminated and only suppliers holding contracts will, in the main, have dealings with the Council. This will serve to maximise the Council's spend within those contracts and will, by rationalising the number of suppliers that the Council deals with, aid the management of the supplier base and allow increased efficiencies in the Purchase-to-Pay process. It will also ensure adherence to Council Financial Regulations and Standing Orders.
- 5.2 The Council will include in its value measurement, where material, the additional benefit in terms of specific knowledge and response that can be provided from employing local contractors and trading with local suppliers.
- 5.3 The Council recognises that suppliers and contractors play a vital role in the provision of services to the people of Argyll and Bute and form part of the resource that is available to the Council. It is therefore crucial that the Council understands the importance of each external company to the Council's supply chain and develops relationships that reflect this.
- 5.4 The following criteria will be used to determine the sensitivity to the Council of a change in the trading position of a supplier and the relationship established will be aimed at either influencing the trading regime and taking opportunities to benefit from an improving relationship or giving maximum notice of an adverse change.

Key Suppliers

- 5.5 These are defined as suppliers where any or all of the following apply:
- Council spend in excess of £250k per annum
 - The supplier operates in a monopoly situation or is in a dominant market position, either nationally or across the Council area OR the company holds a long term contract with the Council
 - The supply or service is vital to the provision of a Council service and no ready alternatives are available
- 5.6 Each of the key supply areas will be managed through the letting of a formal term contract. The contract document in each case will define a level of contact between the supplier and the Council. The Council will appoint a contract owner with responsibility for co-ordinating and managing the relationship between the Council and the supplier under the contract.
- 5.7 In cases where a key supplier has been appointed on a contract let by the authorities buying consortium the Council's contract owner will be their representative on the abc user group.
- 5.8 A risk assessment will be prepared for each of the key supply areas, to analyse the effect on Council services of changes to the contract conditions, either on price at renewal, or in changes in level of performance.
- 5.9 The methods of procurement of key suppliers will be reviewed on a regular basis not exceeding the term of the contract by an officer from the central procurement team, the contract owner and the ultimate users. The views of the supplier will also be sought and formally recorded at this time. This review will include an option appraisal and an updating of the risk assessment.

Regular Suppliers

5.10 These are defined as suppliers where they:

- Will have a term contract or framework agreement with the Council for the provision of supplies or services.

5.11 This type of supplier will make up the Council's main supplier base. The Council will ensure that following the award of a contract on the basis of best value criteria, that all relevant purchases are made within the framework of the contract.

Occasional Suppliers (Not meeting any of the above criteria)

5.12 Suppliers in this category will be limited to those falling into any of the following categories:

- Suppliers providing bespoke services e.g. in construction or consultancy contracts, where individual tendering or quotation procedures will be used, as per the Council's standing orders;
- Those providing specialist or unusual supplies, which the Council would not normally be involved in the purchase of;
- Supplies of very low value.

"Local authorities should, at an early stage, map their procurement activities using techniques such as low/high risk and low/high value matrices. They should identify the areas where procurement resources can have the most impact and the appropriate skills and techniques for each type of procurement." **Byatt Report Recommendation No 8**

6 Procurement Information

6.1 *The Council will ensure full disclosure of information relating to procurement activity as required by the Freedom of Information Act and recognises the genuine benefits that suppliers to the Council as well as the general public can derive from this approach. The Council will however seek to protect the legitimate business interests of those parties that it contracts with in the following manner:*

- *By ensuring that bidders and suppliers are made aware of the implications of the Act when they submit information by including specific clauses within pre qualification documentation, invitations to tender, etc.;*
- *By will invoking exemptions that protect bidders and suppliers legitimate commercial concerns;*
- *By consulting with bidders and suppliers where there is doubt whether requested information could be damaging to their interests.*

- 8.1 Argyll and Bute Council is one of the Scottish Councils to have joined the eProcurement Scotl@nd service and has a clear vision of how the purchase to pay process should operate when the implementation is complete and universal across the Council.
- 8.2 The content of all purchase orders will be approved following a predetermined approval hierarchy before issue to suppliers, and purchases wherever appropriate will be made from catalogues holding contracted goods at contract prices. This moves the approval process from approval of invoices to approval of orders – being the time of making the contractual commitment.
- 8.3 Managers within the Council will be able to view and report on all purchasing activity within the operational unit they control.
- 8.4 eProcurement is a communication tool for the Council, which will allow staff in outlying establishments to easily access the optimum contractual arrangements available. At the same time the Council will assemble detailed management information on purchasing patterns, allowing optimum value to be gained from purchasing arrangements.
- 8.5 The Council make use of purchasing cards and this will continue and be expanded under eProcurement as part of the commitment to reduce process costs and speed up payments to suppliers.
- 8.6 The Council aims to have all suppliers' invoices delivered direct to the creditors section, where they will be matched with orders and receipts using the eProcurement technology, before being processed for payment. Electronic workflow technologies introduced into the creditors section will allow for a paperless process, generating back-office savings on storage, copying and retrieval and invoice matching and payment approval.
- 8.7 The eProcurement system is integrated to the Councils payables ledger and the general ledger to further automate the purchase to pay process. Further integration is under development to provide commitment and accrual information to the general ledger, improving budget monitoring facilities within the Council. There are also proposals to allow direct access from the general ledger to scanned images of invoices to improve visibility of expenditure.
- 8.8 The Council will continue to develop the functionality of eProcurement in conjunction with the other members within the Scottish Public Sector and will seek to explore the benefits of e-tendering and e-auctions.
- 8.9 It is intended in the longer term to extend the use of eProcurement to incorporate both consolidated and self billing to allow the Council to make further efficiencies through the purchase to pay process.

The eProcurement Scotl@nd service is one of the most comprehensive and successful Public Sector eGovernment initiatives in the world. The service adopts a common platform and approach to public sector procurement that delivers rapid, sustainable and significant benefits to participating organisations. As Deputy Minister for Finance and Public Services I have a personal commitment to drive forward public sector excellence, focused on achieving the best value for government, for business and the Scottish people who rely upon us for services. I believe that the eProcurement Scotl@nd service contributes significantly to achieving this.

eProcurement Scotl@nd plays a key role in making Scotland the best and easiest place for suppliers to do business with the public sector. By bringing together local government, the NHS and central government in Scotland eProcurement Scotl@nd contributes significantly to providing the public services required to meet the challenges of the 21st Century. The service is now well established, and growing as more public sector organisations and their suppliers join. It continues to stimulate the transformation of Public Sector procurement in Scotland for the benefit of all participants. eProcurement Scotl@nd brings real joined up government. That is why it has my support.

TAVISH SCOTT,
Deputy Minister for Finance, Public Services and Parliamentary Business

9 Key Objectives

9.1 The strategy will be driven by the completion of each of the required actions listed below within a three-year term.

9.2 Standards and Governance

POSITION STATEMENT	OBJECTIVE	ACTION REQUIRED
<i>Council standing orders constructed along traditional lines</i>	<i>Standing Orders able to cover e-tendering and e-auctions, electronic ordering and visa purchasing</i>	<i>Review Standing orders</i>
<i>No formal measures taken to minimise risk in procurement</i>	<i>The Council to have measures in place to protect service against failure of individual contractors / suppliers or vagaries within overall marketplace</i>	<i>Risk analysis to be carried out in key contract areas</i>
<i>Awareness of purchasing contracts in place comes from line management, abc catalogue or ePS system</i>	<i>All staff who purchase should be aware of all relevant Council contracts in place</i>	<i>Produce and maintain central register of all purchasing contracts available to Council staff</i>
<i>The Council complies to the best of it's ability with EU Procurement Rules</i>	<i>100% compliance with EU Procurement Rules</i>	<i>Contracts to be put in place to cover all relevant commodity groups</i>
<i>A substantial proportion of Council spend is outwith contracts.</i>	<i>Council spend to be directed through formal contracts</i>	<i>Increase both in incidence and use of formal contracts.</i>
<i>The procurement practices of the Council are formed on tradition and custom</i>	<i>Council to ensure existing practices are measured against best practice</i>	<i>Carry out Procurement Reviews across major spending areas of Council</i>
<i>The Council has no formal procedures for encouraging local purchasing</i>	<i>Council to have policies in place to ensure local businesses have opportunities to demonstrate benefits of local purchasing</i>	<i>Engage with local businesses and front line staff to establish benefits of local purchasing and existing barriers</i>

9.3 Staff Development

POSITION STATEMENT	OBJECTIVE	ACTION REQUIRED
<i>The Council currently relies on the inherent skills and knowledge of staff undertaking procurement duties</i>	<i>To have staff involved in procurement aware of the rules, environment and skills available to them</i>	<i>Staff to be given training in procurement appropriate to their involvement</i>
<i>The Council currently has no purchasing procedures in place. Standing orders are available to staff within the public folders</i>	<i>Staff to have purchasing procedures and standing orders readily available when they are involved in procurement activities</i>	<i>Detailed purchasing procedures to be developed and placed in accessible location within intranet.</i>

9.4 Electronic Procurement

POSITION STATEMENT	OBJECTIVE	ACTION REQUIRED
<i>The Council have invested in the ePS electronic procurement service.</i>	<i>To have all purchase orders placed through the electronic system.</i>	<i>Continuing introduction of electronic ordering to all service areas of the Council</i>

9.5 Value for Money

POSITION STATEMENT	OBJECTIVE	ACTION REQUIRED
<i>The Council has some very competitive contracts in place, which are not universally used.</i>	<i>To ensure that the Council takes full advantage of the best deals it can achieve</i>	<i>To increase on-contract spending throughout the Council</i>
<i>The purchase to pay system operates along traditional lines and is paper based.</i>	<i>To streamline the system, reducing back-office costs and improving payment performance</i>	<i>Development of electronic order system along with electronic workflow within creditors section</i>
<i>The wide variety of goods purchased by the Council makes it difficult to apply leverage in contracts.</i>	<i>To access greater purchasing power through collaboration with other organisations in the Scottish public sector.</i>	<i>Continue to play major part in West of Scotland collaborative initiative and seek new and innovative partnership arrangements in procurement.</i>

9.6 Procurement Reviews

POSITION STATEMENT	OBJECTIVE	ACTION REQUIRED
<i>No formal reviews carried out.</i>	<i>To have all completed formal reviews of procurement for all major commodity groups.</i>	<i>Procurement Board to agree a cyclical programme of procurement reviews and ensure recommendations are implemented.</i>



ARGYLL
AND
BUTE
COUNCIL

ETHICAL FRAMEWORK

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ARGYLL AND BUTE COUNCIL
GUIDELINES - CONDUCT OF EMPLOYEES

1. INTRODUCTION

This Code of Conduct brings together guidance and instructions for all employees on a number of issues which occasionally give rise for concern. The public is entitled to expect and to demand of a local government employee conduct of the highest standard. The Council expects each employee to exhibit the highest standards of personal integrity in going about the Council's business. We are all public servants and we should take care that the impression which we create within the community we serve is the appropriate one. There are a number of specific areas where more detailed comment is necessary, although this guidance cannot possibly address all possible circumstances.

The Code incorporates "The Seven Principles of Public Life" identified by the Nolan Committee on Standards in Public Life. These are listed below, altered slightly to place them in a local government context.

Selflessness

You should not take decisions which will result in any financial or other benefit to yourself, your family, or your friends. Decisions should be based solely on the Council's best interests.

Integrity

You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Council.

Objectivity

Any decisions which you make in the course of your work with the Council, including making appointments, awarding contracts, or recommending individuals for rewards or benefits, must be based solely on merit.

Accountability

You are accountable to your Council as your employer. Your Council, in turn, is accountable to the public.

Openness

You should be as open as possible in all the decisions and actions you take. You should give reasons for your decisions and should not restrict information unless this is clearly required by Council policy or by the law.

Honesty

You have a duty to declare any private interests which might affect your work with the Council.

Leadership

If you are a manager, you should promote and support these principles by your leadership and example.

2. GENERAL

Directors should take appropriate steps to ensure that employees are familiar with the appropriate rules of personal conduct which the law and the Council's Standing Orders, Financial and Security Regulations, Contract Standing Orders, and Scheme of Administration and Delegations require and the guidance contained in this code. It is the Director's responsibility to make sure that employees are aware of this code of conduct, but employees must make sure they adhere to the guidelines provided. If in any doubt, an employee should seek advice from his/her Line Manager/Head Teacher.

You may have contact with members of the public as users of services, clients or citizens. You should always be courteous and helpful. You should deal fairly, equitably and consistently with each member of the public, and you must follow the Council's Equal Opportunities Policy.

The public expects you to carry out your duties in a politically neutral way, and this must be respected by councillors. The political activities of a small number of employees are restricted by law.

You must serve the Council and all councillors, regardless of their political outlook. The Chief Executive and senior officers have ultimate responsibility to help ensure that the policies of the Council are implemented.

If you are asked by a councillor to provide assistance with a matter which is clearly party political or which does not have a clear link with the work of the Council, you should politely refuse and inform the councillor that you are referring the matter to your line manager. The Chief Executive will decide whether attendance requested by a political group at any meeting is appropriate and which employee or employees should attend.

Directors will issue copies of these procedures and related regulations to the appropriate employees. Employees who wish to see a copy of the regulations should contact their Line Manager/Head Teacher. Failure to adhere to these Guidelines will be investigated and could lead to disciplinary action.

3. MONETARY INTEREST AND CONTRACTS

Section 68 of the Local Government (Scotland) Act 1973 obliges employees of the Council to give written notice to the Council of any interest which s/he has in any contract or proposed contract with the Council. This deals with direct or indirect issues involving money, and there are detailed legal provisions about this. Whether or not a direct issue involving money exists is a matter of fact in individual cases. An example of an indirect issue involving money is if an employee is a member of a company or other body with which a contract is made or proposed, or is a partner or is in the employment of a person with whom the contract is made or proposed. It is a criminal offence not to give written notice.

A register of monetary interests of all staff is held by the Director of Corporate Services and it is each individual employee's responsibility to ensure that details of such interests are passed to the Director of Corporate Services to keep the register up to date.

The following questions should help to decide whether direct or indirect monetary interest exists:

1. Will you, your family, or friends receive money or benefit in some other way from your actions?
2. Would your involvement in this issue be inappropriate or place you under pressure in relation to current or future issues involving the Council?
3. Could you justify your involvement to the Council, press and public?
4. Are you comfortable with your decision?

If at any time an employee thinks s/he may be affected by these provisions, they should seek advice.

4. GIFTS AND HOSPITALITY

The law of Scotland does not allow Local Government employees and other public servants to take gifts, hospitality etc.

In terms of the Public Bodies (Corrupt Practices) Act, 1889, it is a criminal offence for a Local Government employee to receive, or for a person to give “any gift, reward or advantage whatsoever.”

A further criminal offence is provided by section 68(2) of the Local Government (Scotland) Act, 1973:-

“ An employee of a Local Authority shall not, under the colour of his employment, accept any fee or reward whatsoever other than his proper remuneration.”

(a) Gifts

The acceptance of gifts by employees from persons who have or may want to deal with the Council could be viewed by the public with suspicion and would make the employee concerned, and the Council, vulnerable to criticism. Employees should therefore tactfully refuse any personal gift offered to him/her or to a member of his/her family by any person who has or seeks dealings with the Authority and the offer should be reported to the Director of the department concerned.

The only exception to this rule is a modest gift given in certain circumstances. These gifts are usually given at Christmas time and take the form of calendars and diaries or similar for use in the office. Employees must be careful. An expensive gift should raise a question in the mind of an employee even if it is a type of gift which might otherwise be considered to be acceptable. If in doubt the advice of the Director of the department concerned should be obtained. When a gift is to be refused this should be done with tact.

The following check list of questions should help to decide whether an offer of gifts should be accepted or tactfully rejected -

1. Does the person giving the gift have a high profile in the community or in the Council's area?
2. What is the motivation behind the gift?
3. Would acceptance of the gift be in any way inappropriate, or place you under pressure in relation to any current or future issue involving the Council?
4. Could you justify the decision to the Council, press and public?
5. Is the nature of the gift reasonable and appropriate?
6. How will you respond to the gift?
7. Are you comfortable with your decision?

(b) Hospitality

Employees should treat with caution any offer of hospitality that is made to them personally. The person or organisation making the offer may be doing or seeking to do business with the Council or may be applying to the Council for planning permission or some other kind of decision. You are personally responsible for all decisions connected with the acceptance of an offer of hospitality and for avoiding the risk of damage to public confidence in Local Government.

In general terms, employees should refuse offers of hospitality where any suggestion of improper influence is likely. In particular, caution is necessary where hospitality is offered by a person or body having or seeking business with, or a decision from, the Council.

The following check list of questions should help to decide whether an offer of hospitality should be accepted or tactfully rejected -

1. Does the donor, or event, have a high profile in the community or in the Council's area?
2. Are you expected to attend because of your position in the community?
3. Will the event be attended by others of a similar standing in the community?
4. What is the motivation behind the invitation?
5. Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?

6. Could you justify the decision to the Council, press and public?
7. Is the extent of the hospitality reasonable and appropriate?
8. How will you respond to the hospitality?
9. Are you comfortable with your decision?

5. MEDIA RELATIONS

Normally, elected Members offer media or other public comment in relation to the policies of the Council. However if an employee is asked to comment on a matter of fact this can be done by the local manager taking account of the nature and context of the question. If an employee of the Council is called upon by the press to respond to an enquiry, which involves the expression of an opinion this should be made through the Director of the Service concerned or the appropriate Head of Service, consulting and taking advice from the Communications Manager, or Press and Media Relations Officer, who will provide appropriate advice and guidance in relation to the content of any press statement, and will normally issue that statement on behalf of the Council. It is important also to take care to consult the appropriate spokesperson/Area Chairperson of the Committee in relation to the political sensitivity of any statement which may be issued. There may also be potential legal implications in relation to the content of any press statement, in particular circumstances, and in these circumstances, advice should be sought as appropriate from the Director of Corporate Services.

Trade Union representatives have the right to speak to the press on behalf of their Union members in accordance with the policies of their Union. However, it must be made clear that any views expressed are those of the Union and not the Council.

6. FINANCIAL & SECURITY REGULATIONS AND CONTRACT STANDING ORDERS

Directors are responsible for taking appropriate steps to ensure that employees are aware of the Council's financial regulations and standing orders in so far as they relate to the duties being performed. Directors are required to ensure that all employees who are authorised signatories for the approval of receipt or authorisation of expenditure upon any goods, services or commitment on the part of the Council to take contractual obligations are trained in the financial regulations and the standing orders within 2 weeks of joining their service.

7. DELEGATED POWERS

The Scheme of Administration and Delegations sets out the powers which the Council has delegated to officers to discharge on the Council's behalf. Directors should ensure, where appropriate, that employees are aware of the detail of these powers. There are exclusions from and limitations to the exercise of delegated powers. Principally these require an employee to exercise any delegation within the policies and regulatory procedures of the Council, to ensure that any decision is within the approved budgets of the Council and to ensure that consultation takes place in appropriate circumstances with the Chairperson and/or Vice-Chairperson of the Committee concerned, and with the local Member where the proposed decision is likely to affect the constituency interest of that Member. Where appropriate, Directors should ensure that employees are aware of the terms of the delegations set out in the Scheme which directly affect them.

8. POLICE ENQUIRIES

Employees are required to inform the Director of their Department immediately of any personal involvement in police activity which may relate to their employment with the Council. Employees who become aware of the involvement of any current or former employee(s) in police investigations or prosecutions which may relate to their current/former employment with the Council are required to notify their Director. Directors must advise the Chief Executive and Director of Corporate Services immediately, of any irregularity or possible irregularity affecting the Director's department which may involve the commission of any criminal act.

The Financial and Security Regulations require a Director to notify the Head of Strategic Finance of any financial irregularity or any circumstance which may suggest the possibility of irregularity, including those affecting cash, stores, contracts or property. These are available for inspection from your Director.

The Head of Strategic Finance will take such steps to investigate as s/he considers necessary and to report to the Chief Executive who may instruct that the police should be informed. Every employee has an obligation to inform their Director of any circumstances which suggest the possibility of financial irregularity.

9. CONFIDENTIALITY

Argyll and Bute Council encourages openness in its dealings with members of the public, communities and other organisations and encourages public access to information. There are, however, certain circumstances where information will be of a nature where it should not be disclosed to outside parties. These are:-

1. Certain Council documents which are submitted to the Council or a Committee will be marked by the Director of Corporate Services as “exempt” and “not for publication” in terms of the appropriate provisions of the Local Government (Scotland) Act 1973. There has to be a good reason for classifying documents in this way because they may contain certain classes of information which should not be disclosed. Directors must ensure employees are aware that the contents of any such documents must not be disclosed to those who are not authorised to receive it. 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 subsequently disclosed and made available in compliance with a request for information in terms of the Freedom of Information (Scotland) Act 2002
2. In the course of their employment with the Council, employees will receive information across a whole range of circumstances. In general the rule is that information which is received in confidence by the Council should not be disclosed to other parties unless there is a statutory, legal or genuine requirement to disclose that information and it should only be disclosed to the person and for the purpose which arises from the legal requirement to disclose it. There are particular rules in relation to the release of information held by the Council in response to a relevant request under the Freedom of Information (Scotland) Act 2002 and also in relation to the Social Work and Education Services and Directors should ensure that the employees affected are familiar with these rules.
3. The personal circumstances, including salary, private address and telephone number of employees should not be disclosed to outsider parties unless there is a legal obligation to do so or in response to a genuine request, for example, a request to provide a reference to a Bank or Building Society for mortgage purposes or in relation to a request to provide a job reference.
4. Similarly, the personal circumstances of clients or customers of the Council should not be disclosed unless there is a legal or genuine requirement.
5. The Data Protection Act requires the Council to register with the Data Protection Registrar the purposes for which it holds data about individuals and the Act prohibits the disclosure of that information other than for the purposes registered.
6. There can be issues with regard to information on matters of commercial confidentiality. This can relate to information held or being prepared by a number of Services in the context of Competitive Tendering under Best Value. Council services may compete over a whole range of works and services with external firms and agencies. Disclosure of that kind of information may place Council Services (and thus Council employees), at a severe disadvantage in tendering for Council contracts.
7. There is an obligation on all employees to maintain commercial confidentiality in relation to business dealings with outside organisations and in particular in relation to, for example, prices or tenders quoted by companies for the provision of works, goods or services to the Council.

In conclusion, employees should bear in mind the following principles in relation to breaches of confidentiality -

- In particular circumstances a breach of confidentiality may itself be a criminal offence;
- It may adversely affect the interests of the Council;
- It may adversely affect the interests of an employee or a client or customer of the Council, or cause that person personal difficulty or embarrassment;
- A breach of confidentiality could adversely affect the interests of a third party which could give rise

to legal proceedings and damages against the Council or, indeed, against the employee who has disclosed confidential information.

- Notwithstanding the above there may be a legal obligation on the Council to release such information as is referred to above under the Freedom of Information (Scotland) Act 2002.

10. DEALINGS WITH THE COUNCIL

An employee may have dealings with the Council on a personal level, for instance, as a tenant or as an applicant for planning permission. An employee should never seek or accept preferential treatment in those dealings because of his/her position. An employee should also avoid placing himself/herself in a position that could lead the public to think that s/he is receiving preferential treatment, for instance, by using his/her position to discuss his/her planning application with other employees when other members of the public would not have the same opportunity. Likewise, you should never use your position as an employee to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.

As a citizen, you are entitled to raise with your councillor any complaint which you have about the services of the Council. If your complaint concerns any aspect of your work with the Council however, you must make use of your Council's grievance procedures.

The Scheme of Administration and Delegations contains particular provisions about dealing with situations where a conflict of interest may arise. Where an applicant for a service by the Council is a Councillor or an employee the employee who has the delegated authority to deal with the matter should consider carefully the need to consult with the Chief Executive who may, if s/he considers it appropriate, require the officer to refer the application to the appropriate Committee for determination. Similarly, where an applicant for employment with the Council is related to a Member of the Council, or to an employee, the officer within whose delegated authority it is to make the appointment should consult the Head of Personnel Services who may consider it appropriate to require the officer to refer the appointment to the Chief Executive for decision.

11. USE OF COUNCIL FACILITIES

Normally, all equipment and facilities provided by the Council should be used only for the purposes of the Council. It is very important to be clear that these are provided from public funds and are therefore not to be used for the benefit of individual employees.

It is reasonable, however, that there are exceptions in certain circumstances. The decision on when it is appropriate to make such an exception is one for a Director or Head of Service and must take account of employee relations and also potential public reaction. For example, it would seem reasonable to allow employees to type personal letters on Council equipment, in their own time, and subject to any paper being paid for. It would not be acceptable, on the other hand, to allow employees to use Council equipment or Council premises for outside work. Further guidance on the use of computer equipment is contained within the Council's Regulations for the Control and Use of Computer Software and Computer Data which is available from the Head of ICT and Financial Services.

The Financial and Security Regulations provide specifically that Council vehicles must only be used for the purposes of the Council, and no employee may use a vehicle for private purposes, or carry unauthorised passengers.

When considering any such questions, account should be taken of the following rules:

1. Any use should normally be on Council premises only;
2. Any use must not be for private profit or gain;
3. Any permission given should be recorded in some way, preferably in writing;
4. There must be no cost to the Council in the way of any consumables;
5. Any use must be reasonable and appropriate in scale.

12. ACCEPTANCE OF OTHER REMUNERATIVE EMPLOYMENT/PRIVATE PROFESSIONAL PRACTICE

All employees, except Chief Officials, may undertake other paid employment outwith normal working hours, if the additional employment does not interfere with or impair the employee's ability to carry out their Council duties.

No employee shall engage in work for any individual firm or body, where the Council has or could be involved or where the work in any other way conflicts with the Council's interests.

If an employee is in any doubt, they should consult their immediate supervisor.

All employees may accept invitations to undertake lectures appropriate to their profession. Where such lectures are given on an occasional basis outwith normal working hours or are given within office hours, but are of an infrequent nature, any fees may be retained.

For lectures given within normal working hours, where the lectures cover a given period or pattern, prior permission must be sought from the Director of the Service concerned and any fees received, excluding out-of-pocket expenses, shall be paid to the Council or the time off must be set against the employee's annual leave entitlement.

13. APPLICATION OF COUNCIL POLICIES

A. Consideration should be given by Supervisors, Managers or Headteachers in regard to the operation of all Council policies, therefore Supervisors, Managers or Headteachers should bear the following in mind on all occasions:-

Supervisors, Managers or Headteachers involved in the operation of the Council's Personnel policies (e.g., Discipline or Grievance Procedures), must do so fairly or impartially. It is the responsibility of such a person to consider whether he/she has a conflict of interest and to make a judgement as to whether such an interest prevents him/her from participating. This rule is intended to produce transparency in regard to interest that might influence, or be thought to influence, the action of that employee.

A Supervisor, Manager or Headteacher must make a declaration in advance to the Service Director in any of the following circumstances:-

- if he/she is related to or is a close friend of any employee who is the subject of any personnel procedures
- if any financial or other contractual relationship (except a contract of employment between the candidate and the Council) exists between the Supervisor/Manager/Headteacher and any employee which has not been discharged.

In considering the definition of "relative" or "friend" or any financial or other relationship the key principle is the need for transparency in regard to any interest that might (regardless of the precise description of relationship) be objectively regarded by other persons, acting reasonably, as potentially affecting the ability of the Supervisor/Manager/Headteacher to discharge his/her responsibilities impartially and without influence.

A Supervisor/Manager/Headteacher may also have to give consideration to any known interests of his/her spouse or co-habitee or other close relative in relation to any employee who is the subject of any personnel procedure. The Supervisor/Manager/Headteacher should ask him/herself whether other persons, acting reasonably, would regard these interests as effectively the same as the Supervisor/Manager/Headteacher's interests. A Supervisor/Manager/Headteacher may feel able to state truthfully that an interest would not influence his/her role in any personnel procedure. However, the test is whether others, acting reasonably, might think that a particular interest could influence the Supervisor/Manager/Headteacher's role.

The presumption is that in any of the above circumstances there should be NO involvement in the process. The Service Director will make the final decision having considered all the circumstances.

If you have any queries regarding this, please contact your departmental Personnel Section or Personnel Services, as appropriate.

B The Council has a Recruitment and Selection Policy. All appointments must be made on the basis of merit. You must follow the Council's policy.

You must not lobby a councillor or another colleague either directly or indirectly to secure your own appointment or promotion, or the appointment or promotion of another person. If you have been lobbied by an applicant, another colleague, a councillor or any other person, you must report the matter to your line manager.

14. SPEAKING IN PUBLIC

The Council does not seek to interfere with the democratic or civil rights of its employees. As a citizen, you are entitled to express your views about the Council, provided you do not make use of any private information gained through your work with the Council. You should not, in your work capacity, criticise the Council either through the media or at a public meeting, or in any written communication with members of the public.

From time to time individual employees will be asked to speak at public meetings, seminars or conferences. Such activity must receive the consent of the Director concerned or the appropriate Head of Service and must be on the basis that the individual employee will not comment inappropriately on Council policies or practices.

15. POLITICAL ACTIVITY

A number of the Council's employees are affected by the statutory restrictions on political activity imposed on some categories of local government employees. Separate advice will be issued by the Directors of Corporate Services and Head of Personnel Services about those restrictions.

16. MEMBERSHIP OF EXTERNAL BODIES

Employees of the Council have the right to join and participate in the activities of external bodies, but in certain circumstances this could lead to a conflict of interest between their duties to the Council and their duties to the external body. Employees should therefore not take up positions in an Executive or any other capacity which might give rise to such a conflict of interest.

17. POLITICAL ADVICE GROUPS

The National Code of Local Government Conduct gives the following guidance on the relationship between councillors and employees:

"23. Both councillors and employees are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only as long as their terms of office lasts. Employees are responsible to the Council. Their job is to give advice to councillors and their Council, and to carry out the Council's work under the direction and control of the Council, their committees and sub-committees.

"24. Mutual respect between councillors and employees is essential to good local government. Close personal familiarity between individual councillors and employees can damage their relationship and prove embarrassing to other councillors and employees.

These principles apply equally in this Code.

Chief officials will attend Group meetings, following a request by the Leader of a Group formed within the Council, subject to requests for attendance being addressed in writing to the Chief Executive who will, after consultation with appropriate Chief Officials, advise which officials would be most appropriate to attend.

18. TREATMENT AT WORK

You are entitled to expect fair and reasonable treatment from your colleagues, managers and from councillors. If you feel that you have been unfairly treated or have been discriminated against, you are entitled to make use of the appropriate Council procedures.

There may be rare occasions when you feel that you have been required by a colleague, a councillor or a

member of the public, or by an organisation, to act in a way which might be illegal, improper or unethical, or which is otherwise in conflict with the principles of this Code of Conduct. You must follow the Council's procedure for dealing with such concerns.

The following is an example of good practice which allows concerns of this nature to be raised confidentially inside the Council.

- If you are in this situation, you must report the matter to your line manager.
- If, however, you feel that you cannot discuss the matter with your line manager, then you must report the matter to the Chief Executive or another officer appointed by the Council outwith your line management.
- The Chief Executive or your line manager or the other person appointed by the Council will then decide in consultation, where necessary, with the Council's Monitoring Officer, what action is to be taken, including whether the issue which you have raised can be dealt with through the Council's grievance procedure.

The confidentiality of your concern will be maintained wherever possible.

19. CONCLUSION

These Guidelines are intended to provide a framework for employees but do not cover all eventualities. Employees should never do anything which could not be justified to their Director, the Council or the public. An employee's conduct, and what the public believes about his/her conduct, will affect the reputation of the Council. It is not enough to avoid actually doing something improper. An employee must, at all times, avoid any occasion for suspicion and any appearance of improper conduct.

ARGYLL AND BUTE COUNCIL

A PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with each other.
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be comprehensive. It offers guidance on some of the issues which most commonly arise, to strengthen good working relationships which already exist, and to promote clarity and certainty.
- 1.3 The protocol seeks to reflect the provisions of the protocol contained at annexe C to the Councillors Code of Conduct by giving further expression to these provisions within Argyll and Bute Council. The objective is to enhance and maintain the integrity (real and perceived) of Argyll & Bute Council, and these protocols demand the highest standards of personal conduct.

2. RELATIONSHIPS BETWEEN EMPLOYEES AND ELECTED MEMBERS

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and Sub-Committees.

Mutual respect between Councillors and Officers is essential to good Local Government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers. Councillors must always remember that they require to conduct themselves in accordance with the Councillor's Code of Conduct following upon Section 1 of the Ethical Standards In Public Life Etc (Scotland) Act 2000 and the subsequent guidance and the dispensation notes which have been issued.

- 2.2 The Council determines policy. It is also ultimately responsible for ensuring the delivery of services: if the public is not satisfied, it is the elected Members who have to take responsibility and answer criticism. In a nutshell, the Members are in charge.

The Officers manage the organisation which delivers the services. The services require professional management, and the Officers are selected for their experience and qualifications to do this. The Members are elected to determine policy, not to engage in direct operational management of the services.

The Officers advise the Council. The Council has a right to expect advice which is candid, expert and impartial. Officers serve the whole Council.

- 2.3 It is important that any dealings between Members and Officers should observe high standards of courtesy and mutual respect and neither party should seek to take unfair advantage of their position.

3. POLITICAL NEUTRALITY OF OFFICERS

- 3.1 Members must respect the political neutrality of Officers. Officers should only be asked to provide assistance or advice confined to Council business, not Party Group nor individual political business. Officers are entitled to refuse a request which lies outwith the confines of Council business.

It is the responsibility of all Officers to implement the policies of the Council and support Councillors irrespective of the individual Officer's own personal political views. Officers must, regardless of personal political views, ensure that the individual rights of all Councillors are respected, and advice must be given in such a way as to avoid compromising an Officer's political neutrality.

4. SUPPORT SERVICES TO MEMBERS

- 4.1 The only basis on which the Council can lawfully provide support services (other than the provision of political assistants of which there is none in Argyll & Bute) to Members is to assist them in discharging their role as Members of the Council. Such support services (eg stationery, typing, printing, photocopying, transport, etc.) must therefore only be used on and for Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

5. MEMBERS ACCESS TO INFORMATION

- 5.1 Members are free to approach any Council Service to provide them with such information explanation and advice (about that Service's functions) as they may reasonably need in order to assist them in discharging their role as Councillors. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on a matter raised with them by a constituent. Other than for information of a routine or minor nature, such approaches should normally be directed to the Director or appropriate Head of Service or Area Manager.

- 5.2 A request by a Member of the Council to the appropriate Director or Head of Service will be dealt with in compliance with all relevant Statutory requirements to include the Freedom of Information (Scotland) Act 2002. Such requests will be met, subject to any legal constraints (which are dealt with below) and subject as follows.

- (a) A copy of the response will be given to the Leader and/or Deputy Leader of the Council, the appropriate Spokesperson, Committee Chair and/or Vice-Chair, the Chief Executive and appropriate Directors unless –
- the information is of a routine or minor nature
 - the information is about or affects the personal circumstances of the Member seeking the information or his immediate family
 - the disclosure of the information to other than the Member seeking it would involve the contravention or potential contravention of any law.

A copy of the information will be provided to the appropriate Ward Member(s) where a matter affects that Member's Ward.

- (b) When a Director is approached by a Member with a request for a report to be compiled, either with a view to that information being presented to the Council, Committee, Sub-Committee or Policy Development Group, or on an individual basis, the Officer will, before acceding to the request, consult the Leader and/or Deputy Leader of the Council, the Chair or Vice-Chair of the appropriate Committee and the Chief Executive.

- (c) If a Director considers that information requested could only be provided at unreasonable cost, having regard to staffing and other costs, before acceding to the request, he or she will consult with the Leader and/or Deputy Leader of the Council, the Chair or Vice-Chair of the Committee concerned and the Chief Executive, advising the approximate extent of the work/cost of such provision and have regard to the Fees Regulations issued under the Freedom of Information (Scotland) Act 2002.
 - (d) It is open to a Member to make his or her request for information by way of a written question in terms of the Council's Standing Orders for answer by the appropriate Committee Chair.
- 5.3 In addition to their rights under the Freedom of Information (Scotland) Act 2002 Members also have legal rights to inspect Council documents which are partly covered by statute and partly by common law. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the Member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may disclose "exempt information" on the agenda for a meeting.
- 5.4 The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This is commonly referred to as the "need to know" principle.
- 5.5 Over and above the rights contained in the Freedom of Information (Scotland) Act 2002 the exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know", which must be determined, initially, by the particular Director whose Service holds the document (with advice from the Director of Corporate & Legal Services and the Chief Executive). In the event of dispute, the question falls to be determined by the relevant Committee – ie the Committee in connection with whose functions the document is held, or ultimately the Council.
- 5.6 While the terms "Council document" is very broad and may include, for example, any document produced with Council resources, a Member of one Party Group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another Party Group unless this is information held by the Council.
- 5.7 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided – that is, in connection with the proper performance of the Member's duties as a Member of the Council.

As a Council or Committee or Sub-Committee Member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose nor use confidential information for the personal advantage of yourself or anyone known to you, or to the disadvantage or the discredit of the Council or anyone else. No Member should disclose to any person any information coming to his/her knowledge by virtue of his/her office as a Councillor which the Council is not obliged by law to disclose. Such disclosure could prejudice the interests of the Council and Members could lay themselves open to serious legal action on a personal basis, by the Council or by a third party.

6.

OFFICER ADVICE TO PARTY GROUPS

- 6.1 It is common practice for Party Groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making bodies. Officers may properly be called upon to provide information or advice to such deliberations by Party Groups.
- 6.2 This support can take many forms, ranging from a briefing meeting with a Spokesperson or Chair or vice-Chair prior to a Committee meeting, to information or a presentation being made to a Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever Party Group is for the time being in control of the Council, such support is available to all Party Groups.
- 6.3 Certain points must however be clearly understood by all those participating in this type of process, Member and Officer alike. In particular –
- (a) Attendance at a meeting of a Party Group will be restricted to Chief Officials and will follow a request by the leader of the Group being made to the Chief Executive who will, after consultation with the appropriate Chief Officials, advise which Officials would be most appropriate to attend.
 - (b) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Group business. The observance of this distinction will be assisted by Officers not being present at meetings or parts of meetings, when matters of Group business are to be discussed, nor when there are present at a Group meeting persons who are not Members of the Council, because such persons will not be bound by the Councillors Code of Conduct (particularly relating to interest and confidentiality) nor the Access to Information legislation.
 - (c) Groups meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, either by a Member or an Officer.
 - (d) Similarly, where Officers provide information or advice to a Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered; an Officer will not, therefore, provide more information to a Group meeting than he/she would to a Committee or Sub-Committee.
- 6.4 Officers must respect the confidentiality of any Party Group discussions at which they are present and they must not relay the content of any such discussion to another Party Group (or a Member of such other Group).

7.

CHAIR/OFFICER RELATIONSHIPS

- 7.1 It is clearly important that there should be a close working relationship between a Spokesperson, the Chair of a Committee and an appropriate Chief Officer and other senior Officers of any Service which reports to that Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with all Members and Party Groups on an equitable basis. There are obligations, therefore, in this respect on the part of both Member and Officer.
- 7.2 The Spokesperson and Chair of a Committee will routinely be consulted as part of the process of drawing up the Agenda for a forthcoming meeting. It must be recognised, however, that in some situations an Officer will be under a duty to submit a report on a particular matter. Officers will always be fully responsible for the contents of any report submitted in their name. No Officer will be prevented from submitting a report on a particular matter where there is a duty on that Officer to do so, nor from expressing a professional view which the Officer believes requires to be so expressed. No Member will have the right to require an Officer's report to be changed before it is considered by the Council, or any of its Committees or Sub-Committees.
- 7.3 In relation to action between meetings, it is important to remember that the law only allows for decisions relating to the discharge of any of the Council's functions to be taken by a Committee, a Sub-Committee or an Officer. The law does not allow for such decisions to be taken by a Chair or indeed by any other single Member. It sometimes happens that a Committee or Sub-Committee will wish to delegate the determination of a particular matter. This decisions-making route should only be used sparingly and where it is used the delegation should be to the Officer, in consultation with the Chair (or other appropriate Members). It is therefore the Officer (as required by statute) who takes the action and it is the Officer who is accountable for it. Thus if there is a disagreement in the course of the consultation referred to about the action to be taken, the Officer will refer the matter back to the Committee or Sub-Committee for decision.

8.

CORRESPONDENCE

- 8.1 Where it is appropriate (in terms of this protocol) for correspondence between an individual Member and an Officer to be copied by the Officer to another Member, or where the Officer considers it proper to copy that correspondence, this will be made clear to the original Member. A system of "silent copies" should not be employed.
- 8.2 Official letters on behalf of the Council will normally be sent out under the name of the appropriate Officer. It may be appropriate in certain circumstances relating to a matter which has been considered or will be considered by the Council or any of its Committees or Sub-Committees for a letter to appear under the name of a Member. Letters, however, which create obligations or give instructions on behalf of the Council will only be sent out under the name of the appropriate Officer.

9.

INVOLVEMENT OF WARD COUNCILLORS

- 9.1 Whenever a meeting is organised by the Council or by a Council Service which involves invitations being extended to members of the public or local community organisations to consider a local issue, the local Ward Member(s) will be invited to attend the meeting. Similarly, when the Council undertakes a consultative exercise on a local issue, the Ward Member(s) will be notified before the consultation commences.
- 9.2 If the Council are invited to be represented at a public event which involves a visit by a Royal Personage, a Minister, MP, MSP or MEP or a Board Member of a non-departmental public body, the Council will use its best endeavours to ensure that the local Ward Member, in whose Ward the event is taking place, will be invited. In circumstances where the Council is hosting such an event, the Ward Member will be invited.

ARGYLL AND BUTE COUNCIL

SCHEME OF PAYMENT OF MEMBERS' ALLOWANCES

1. This Scheme is made in terms of the Local Authorities Etc. (Allowances) (Scotland) Regulations 1995.
2. The Scheme is made with effect from 1 April 2001 and may be amended at any time, but may only be revoked with effect from the beginning of a financial year.
3. The rates of Basic and Special Responsibility Allowances are as set out in this Scheme. Entitlement to Basic and Special Responsibility Allowances will be calculated on a daily basis and at such rate for the relevant days as set out in this Scheme, or where an amendment is made, within the terms of the Regulations.
4. The Head of Strategic Finance in consultation with the Head of ICT and Financial Services will incorporate into the Scheme –
 - (i) Revised rates of Basic Allowance in accordance with and when these are revised from time to time by way of Regulations made by Scottish Ministers.
 - (ii) Revised rates of Special Responsibility Allowance to link those rates in line with national pay settlements for Local Government employees covered by the “Red Book”.
5. Basic Allowance of £6,057.10 per annum (and thereafter such revised rates as provided in paragraph 4. above) will be paid by bank transfer on a two-weekly basis to each Member on prior receipt by the Head of ICT and Financial Services of a signed claim form in respect of the financial year or on the occasion of any amendment to the sum payable.
6. Payment of a Special Responsibility Allowance (SRA) will be made to such Councillors as have such special responsibilities set out in Annex 1 hereto (or such other special responsibilities as the Council may from time to time by amendment to this Scheme determine) at the amounts shown, (and thereafter such revised rates as provided in paragraph 4 above). An SRA will be paid by bank transfer on a two-weekly basis on prior receipt by the Head of ICT and Financial Services of one signed claim form in respect of one allowance in respect of the financial year, or on the occasion of any amendment to the sum payable.
7. *Where the term of office of a Member is less than the financial year, his/her entitlement to Basic Allowance and to Special Responsibility Allowance will be in the ratio which the number of days during his/her term of office bears to the relevant days at the appropriate rate or rates in the financial year (or period) concerned.*
8. *Where the Members of the authority are divided into at least two political groups, and either a majority of Members of the Council or half of such Members and the Convener of the Council belong to the same political group (“the controlling group”), a Special Responsibility Allowance will be paid to at least one person who is not a Member of the controlling group and who has special responsibilities either by acting as Leader or Deputy Leader of a Political Group or acting as the spokesperson of the group on a Committee or Sub-Committee of the authority. In such cases, the amount of the Special Responsibility payment will be determined by the Council. Only one Special Responsibility Allowance will be payable to any one Member irrespective that such Member may hold more than one position in respect of which a Special Responsibility Allowance is payable, and the Member concerned will receive whichever is the higher or highest of any Special Responsibility Allowances to which he or she would be entitled.*

The definition of a political group is contained in Schedule 1 of the Regulations and is attached hereto at Annex 2.

9. *Financial loss allowance will be payable to appointed Members of the authority not being Councillors, in respect of such losses of earnings or any additional expenses as are necessarily sustained or incurred by those Members in carrying out any duty, as described in Annex 3 to this Scheme. This does not apply to any losses or expenses in respect of which provision for payment or an allowance is made under any of Section 46 to 48 of the Local Government (Scotland) Act 1973 (Travelling and subsistence Allowances for attending conferences and meetings and expenses of official and courtesy visits etc). The amount of the allowance shall not exceed:-*
- (a) *For a period not exceeding 4 hours - £24.29*
- (b) *For a period exceeding 4 hours but not exceeding 24 hours - £48.57*
- (c) *For a period exceeding 24 hours, the aggregate of £48.57 and of such amounts specified in sub-paragraphs (a) or (b) as is appropriate to the number of hours by which the period exceeds 24 hours.*
10. *The payment of allowances under this Scheme shall not exceed the relevant maximum.*
11. *For the purposes of claiming travel and subsistence allowances, the duties set out in Annex 3 hereto shall be approved duties. These rates shall be the maximum rates prescribed by Scottish Ministers and the rates will be revised by the Head of Strategic Finance in consultation with the Head of ICT and Financial Services in accordance with and when revised rates are prescribed from time to time by Ministers.*
12. *A Member may, by notice in writing given to the Head of ICT and Financial Services, elect to forego any part of his entitlement to any of the allowances in this Scheme.*
13. *Records shall be kept of any payments of allowances made under this Scheme, in a form determined by the Head of ICT and Financial Services, and shall include the following:-*
- (a) *The name of the recipient; and*
- (b) *The amount and nature of the payment*
- The record shall be available at all reasonable times for inspection (free of charge) by any Local Government elector for the area of Argyll and Bute and that person may take a copy of any part of it.*

ANNEX 1

SPECIAL RESPONSIBILITY ALLOWANCES

Convener of the Council	£14,785
Leader of the Council	£14,785
Depute Leader of the Council	£11,942
Vice-Convener of the Council	£10,235
Member of Strategic Policy Committee	£10,235
Chair of an Area Committee	£10,235
Vice Chair of an Area Committee	£5,118
Chair of Public Service and Licensing Committee	£7,962

Vice-Chair of Public Service and Licensing Committee	£3,412
Chair of Audit Committee	£5,118
Vice-Chair of Audit Committee	£3,412
Vice-Chair of Standards Committee	£3,412
Leader of largest Group other than “controlling” Group	£10,235
Chair of a Licensing Board	£5,118
Council Representative	£2,275

ANNEX 2

POLITICAL GROUPS

SCHEDULE 1 - REGULATION 2(1) & (2)

CONSTITUTION OF POLITICAL GROUPS

1. (1) A political group shall be treated as constituted in relation to a local authority when there is delivered to the proper officer of the local authority a notice in writing which –
 - (a) is signed by two or more Members of the local authority who wish to be treated as a political group; and
 - (b) complies with the provision of sub-paragraph (3).
- (2) A political group shall cease to be constituted if the number of persons who are to be treated as members of that group is less than two.
- (3) A notice under sub-paragraph (1) shall state –
 - (a) that the Members of the local authority who have signed it wish to be treated as a political group;
 - (b) the name of the group; and
 - (c) the name of one member of the group who has signed the notice and is to act as its leader.
- (4) A notice under sub-paragraph (1) may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader when he is unable to act (“the deputy leader).
- (5) The name of the group or the name of the person who is the leader or deputy leader may be changed by a further notice in writing delivered to the proper officer and signed –
 - (a) in the case of a change in the name of the group or the deputy leader, by the leader of the group or a majority of the members of the group:

- (b) in the case of a change of the leader of the group, by a majority of the members of the group.

MEMBERSHIP OF POLITICAL GROUPS

- 2. Subject to paragraph 4 a Member of the local authority is to be treated as a member of a political group if –
 - (a) he has signed a notice in accordance with paragraph 1: or
 - (b) he has delivered to the proper officer a notice in writing which is signed by him and by the leader or deputy leader of the group or by a majority of the members of the group, stating that he wished to join the group.

CESSATION OF MEMBERSHIP

- 3. A person is to be treated as having ceased to be a member of a political group when –
 - (a) he has ceased to be a member of the local authority;
 - (b) he has notified the proper officer in writing that he no longer wishes to be treated as a member of the group;
 - (c) there is delivered to the proper officer a notice under paragraph 1 or 2(b) signed by the person whereby a new political group is constituted or he joins another political group; or
 - (d) there is delivered to the proper officer a notice in writing signed by the majority of the members of the group stating that they no longer wish him to be treated as a member of it.

RESTRICTION ON MEMBERSHIP

- 4. No person shall be treated as a member of more than one political group at any given time and, accordingly, if a person changes the political group of which he is a member by notice under paragraph 1 or 2 he shall from the date of delivery of that notice be treated –
 - (a) in the case of a notice under paragraph 1, as a member only of the new political group which is constituted in accordance with that paragraph; and
 - (b) in the case of a notice under paragraph 2(b) as a member only of the group named in that notice.

SCHEME OF APPROVED DUTIES

The following Members of Council are authorised, arising from and to further duties of their office, to undertake the duties set out below.

- 1. Attendance by a Member at any meeting of the Council, a Committee or Sub-Committee and otherwise any meeting of a Policy Development or Working Group, or at a site visit, seminar or similar event, called or authorised by the Council or any Committee, Sub-Committee or Working Group.
- 2. Attendance by the Chairman and Vice-Chairman of a Committee, Sub-Committee or Policy Development/Working Group with the Chief Executive or a Director of Service or Head of Service or Area Manager for the purpose of consultation on matters likely to arise at a meeting of the Committee, Sub-Committee or Policy Development/Working Group concerned.
- 3. Attendance by a Member at a meeting of the group of Councillors of which she/he is a registered member.

4. Attendance by a Member who is appointed to represent the Council at meetings called by COSLA; and attendance by a Member at other meetings where COSLA authorises or appoints that Member to participate at that other meeting.
5. Attendance by a Member (or her/his substitute) who is appointed to represent the Council at meetings called by a Joint Board, or by any Joint Committee to which any of the functions of the Council have been delegated, and attendance by a Member at other meetings where the Joint Board or Joint Committee authorises or appoints that Member to participate at that other meeting.
6. Attendance by a Member at any conference or seminar or similar event where the Member is authorised to attend by the Council, or a Committee, Sub-Committee or Policy Development/Working Group of the Council, or under arrangements from time to time approved by the Council.
7. Attendance by any member at a meeting of an outside body to which that Member has been appointed by the Council.
8. Attendance by the Convener or Vice-Convener of the Council or the Leader or Deputy Leader of the Council or of any Spokesperson or Member of the Strategic Policy Committee at any meeting, conference, or other event which they consider to be connected with the Council or its area, or local government business and where in their view it is in the interests of the Council to attend.
9. Attendance by any Chairman or Vice-Chairman of a Committee at a meeting, conference or other event which they consider to be connected with their particular Committee responsibilities and where in their view it is in the interests of the Council to attend.
10. Attendance by the Convener or Vice-Convener of the Council or the Convener's nominee at a civic or other event being held by the Council or another body at which they consider it is appropriate that the Council be represented or at a funeral or other commemorative event to represent the Council.
11. Attendance by a Member at official openings of Council premises or at functions organised or supported by the Council where the invitation is from the Council or Convener of the Council, or a Committee or the Chairman of a Committee.
12. Attendance by a Member on not more than two days per calendar month –
 - (i) at appropriate centres for holding surgeries for consultation by constituents; or
 - (ii) to visit individual constituents where there are particular reasons which should be specified on the claim form.
13. Attendance by a Member at their nearest are Council office on not more than two days per calendar month for the purpose of dealing with matters raised with them by constituents.
14. Attendance at a meeting of a Primary School Board or Community Council within the Member's Ward, or as a nominated representative of the Council at a meeting of a Secondary School Board.
15. Attendance at a meeting of a Community Forum established by the Council.

Qualifications

1. The rates of travel and subsistence allowance payable will be those determined from time to time by Government regulation or otherwise determined in accordance with arrangements approved by the Council from time to time.
2. Invitations from outside bodies or third parties to a Member in an individual capacity to attend any event does not constitute an approved duty, unless attendance is authorised by the Council or any Committee or Sub-Committee, but without prejudice to the provisions set out above applicable to the Convener or Vice-Convener of the Council, the Leader or Depute Leader of the Council, or a Committee Chairman or Vice-Chairman as the case may be.
3. Travel and subsistence expenses will only be payable in respect of an approved duty relating to any other body where that body does not itself pay travelling and/or subsistence allowances; if the body pays its own travelling and subsistence allowances, the Member should claim such allowances from the other body.
4. The performance of any of the foregoing approved duties is subject to the approval of the full Council in any particular case in respect of a journey outwith the European Union.
5. Travel by rail will normally be at 2nd Class (I) except in respect of travel by sleeper, (ii) otherwise unless it is only possible to make the journey by travelling 1st Class and no reasonable alternative exists, and (iii) if the Member is accompanying a representative of another agency who is travelling 1st Class. Any journey involving air travel will normally be at economy class.
6. Claims can be made for the reimbursement of actual costs in respect of travel and subsistence up to the maximum level of day or overnight subsistence. While it is not necessary to produce receipts in respect of day subsistence, Members are required to produce receipts for overnight accommodation and should endeavour at all times to book accommodation through the Council's travel agents to secure discounted rates and to facilitate the reclaiming of VAT. Where a Member fails to book through the Council travel agents a detailed receipt must be produced to the Head of ICT and Financial Services.