

**Item 4 (a)**



**ARGYLL AND BUTE COUNCIL**

**CONSTITUTION**

**PART C**

**SCHEME OF ADMINISTRATION AND DELEGATIONS**

**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 POLITICAL MANAGEMENT ARRANGEMENTS**

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

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

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

### **1.2 SHORT LIFE WORKING GROUPS**

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

### **1.3 CONSTITUTION**

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

- (a) Mid Argyll, Kintyre and the Islands: comprising Electoral Ward 1 (South Kintyre); EW2 (Kintyre and the Islands); EW3 (Mid Argyll).
- (b) Oban, Lorn and the Isles: comprising EW 4 (Oban South and the Isles); EW5 (Oban North and Lorn).
- (c) Bute and Cowal: comprising EW 6 (Cowal); EW7 (Dunoon); EW 8 (Isle of Bute).
- (d) Helensburgh and Lomond: comprising EW 9 (Lomond North); EW10 (Helensburgh Central); EW11 (Helensburgh and Lomond South).

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

#### Strategic Committees

- (1) Policy and Resources Committee

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

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

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

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

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

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

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

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

- (6) Bute and Cowal Area Committee

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

- (7) Helensburgh and Lomond Area Committee

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

(8) Planning, Protective Services and Licensing Committee

Fifteen members

Performance Review and Scrutiny Committee

11 members to be appointed, 4 from the Opposition, 3 from the administration, 3 Community Planning Partnership nominees and an independent Chair who shall be appointed from time to time as determined by the Council.

(9) Audit Committee

Five members, none of whom shall be a Policy Lead.

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

(10) Appeals Committees

(a) *Staffing Appeals*

Five Members

(b) *Placing Appeals – Special Educational Needs*

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

(c) *Education Appeals and Bursaries*

Three Members

(d) *Social Work Complaints Review*

Three persons drawn from the list of non-councillors maintained for this purpose.

(e) *Access to Personal Files Review*

Three Members

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

## 1.4 GENERAL PROVISIONS REGULATING MEMBERSHIP, ETC

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

### Executive Positions

- 1.4.2 (1) For the purposes of this Scheme, an executive position is any one of the following:-
- (a) Leader of the Council
  - (b) Depute Leader of the Council
  - (c) Depute Provost
  - (d) Policy Lead
  - (e) Chair of the Planning, Protective Services and Licensing Committee
  - (f) Chair of an Area Committee
- (2) Except where otherwise provided by any enactment or statutory order, or otherwise by this Scheme, the Members to be appointed to any one or more executive position will be so appointed at the first meeting of Council following each ordinary election of Councillors.
- (3) Subject to the provisions of the next following sub-paragraph, so long as s/he remains a Member of the Council, a Member appointed to an executive position will hold such office, until the next ordinary election of Councillors.
- (4) A Member appointed to an executive position may be removed from such office at any time by resolution of the Council, provided the agenda for the meeting contains notice to that effect or an item of business is included on the agenda for the meeting arising out of the consideration of which the removal of a member from an executive position might reasonably be anticipated.

### **Memberships and Period of Office**

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



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

### **Casual Vacancies**

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

## **1.5 ADMINISTRATION OF DELEGATED AND REFERRED FUNCTIONS**

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

- (6) Every meeting of the Council, and any body established in terms of this scheme, and such other bodies as the Council may direct from time to time, will be regulated by the Council's Standing Orders and the provisions of Section 50 of the Local Government (Scotland) Act 1973 and will, except where otherwise provided by those Standing Orders, that Section, or Council direction, be open to the public.
- (7) Minutes of Committees – items that are marked with an asterisk in the Minutes of Committees or Sub-Committees are items for the approval of the Council and all other items are submitted for the information of the Council.

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

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

## **SECTION TWO**

### **2.1 TERMS OF REFERENCE AND DELEGATION**

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

#### **General Delegations**

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

#### **Exclusions from Delegations**

2.1.3 The following are excluded from the delegation to any body established in terms of this scheme:-

- (1) Determining the overall Goals, Values and Policy Framework Documents as referred to in Part A, Part I paragraph 3(1) of the Constitution or matters of new policy/strategy or variation of existing policy/strategy which may be inconsistent with those Goals, Values or Policy Framework Documents.

- (2) The approval of any plan which is part of the Policy Framework and any other plan which introduces new policies of major significance or varies existing plans or policies to a material extent.
- (3) The approval of plans which are part of the Council's Planning and Performance Management Framework; and the Estimates of Revenue and Capital Expenditure.
- (4) The power to fix the Council Tax, and the levels of charges for any services.
- (5) The power of incurring any expenditure not provided for in the Annual Estimates of Revenue and Capital expenditure.
- (6) The appointment to a body established in terms of this scheme of a person who is not a Member of the Council, without the prior approval of the Council.
- (7) Matters reserved to the Council by Statute, Standing Orders and other schemes approved by the Council from time to time.
- (8) All proposals for the promotion of or opposition to private legislation.
- (9) The making, alteration or revocation of any part of the Council's Constitution.
- (10) The determination of planning applications which in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 are (1) National and the undertaking of Pre-Determination Hearings in respect of all national applications; (2) Major Developments and the undertaking of pre-determination Hearings where in the case of the latter there would be a significant departure from the development plan, were the application to be approved.
- (11) Admission of honorary free men.
- (12) The appointment of Members to Statutory Joint Boards or to the Licensing Board.
- (13) The dismissal of the Chief Executive.
- (14) Approval of any annual investment strategy or annual investment report required by any consent issued by the Scottish Ministers by virtue of Section 40 of the Local Government in Scotland Act 2003.

## **Limitations on Delegations**

2.1.4 Delegations to a body established in terms of this scheme will be subject to the following restrictions and conditions:-

- (1) A body will, in carrying out the functions, powers and duties referred to or delegated to it, observe and comply with this Scheme, the Standing Orders of the Council, the Financial and Security Regulations, and the Contract Standing Orders, and with any resolutions, directions, or instructions given by the Council with reference to its business generally or to the delegations to any particular body.
- (2) A body may, in any case, decide that any matter delegated to it be referred to the Council with or without a recommendation.
- (3) Where a function of the Council is delegated, any delegation of that function by one body to a subordinate body will be subject to the approval of the Council and a specific delegation so approved will supersede a previous delegation; provided that the Planning Protective Services and Licensing Committee, or an Area Committee may, without the approval of the Council, delegate to a Sub-Committee of not less than three of their number any routine matter of business or, for final adjustment and settlement, any other matter falling within the delegation to any of these bodies if such matter has been approved generally by the body; or for the purpose of holding a hearing which may be required arising out of any statute, regulation or administrative procedure of the Council.
- (4) A body established in terms of this scheme will have the powers and duties set out in the Terms of Reference in respect of that body save that any function which is referred or delegated to any body will be exercised subject to the powers and functions vested in the Council.

## **Area Committees**

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

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

- (b) The approval of or allocation of any expenditure on any matter will be so approved or allocated only within any framework or criteria approved by the Council or as otherwise directed by the Council.
  - (c) The approval of any service delivery arrangements will be so approved only within any framework or criteria approved by the Council, or as otherwise directed by the Council.
- (3) The powers and duties of an Area Committee will be exercised subject to the powers and duties of the Council and any resolution of an Area Committee will be of no effect in the event that the Council directs that the matter which was the subject of the resolution is referred to it or to the Council for consideration, and no step will be taken to give effect to any such resolution of an Area Committee while the implementation of the resolution is suspended in consequence of such a direction.
  - (4) The requirement that any decision taken by an Area Committee regarding the disposal, by sale, or by lease for a period of three or more years of surplus property at less than market value is subject to the approval of the Council.

## **2.2 Strategic Committees**

### **Policy and Resources Committee**

#### **2.2.1 General**

- (1) To determine strategic policy objectives and priorities for the Council.
- (2) To determine and implement the Council's policies in relation to communication.
- (3) To consider matters arising from or in connection with any local government associations.
- (4) To exercise the functions of the Council in relation to Community Councils.
- (5) To exercise the functions of the Council as local Registration Authority for the purposes of the Registration of Births, Deaths and Marriages (Scotland) Act 1965, and all associated legislation.

#### **2.2.2 Voluntary Organisations**

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

### 2.2.3 Financial Assistance

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

### 2.2.4 Equalities & Diversity

To determine and implement the Council's policies in relation to the promotion of equality of opportunity, in relation to both the functions of the Council and the wider community in Argyll and Bute and to promote initiatives to combat discrimination.

### 2.2.5 Financial Resources

- (1) To oversee the management of the Council's financial resources.
- (2) To advise the Council on the Revenue Budget, Capital Plan and Council Tax.
- (3) To consider the draft version of the Council's accounts.
- (4) To approve adjustments to Management budgets in so far as not delegated to officers within the terms of the financial regulations
- (5) To ensure effective supervision of Treasury Management activities, strategy and policies.
- (6) To make arrangements for the collection of the Council Tax and other monies due to the Council.
- (7) To oversee the arrangements for all insurances.
- (8) To oversee the arrangements for risk management.

### 2.2.7 Corporate Asset Management

- (1) To determine and implement the Council's policies in relation to the strategic management of its asset streams in relation to Property, Greenspace, Roads, Fleet and Information systems and Technology.
- (2) To develop and implement the Council's Corporate Asset Management Plan.

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

#### 2.2.8 Human Resources

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

#### 2.2.9 Civic Services

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

#### 2.3.0 Community Planning

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

#### 2.3.1 Continuous Improvement

- (1) To determine and implement the Council's policies in relation to the achievement of Best Value.
- (2) To consider the Best Value Review and Inspection Programme.
- (3) To consider Best Value Reviews from Services as appropriate.
- (4) Without prejudice to the duties and responsibilities and delegated authority of other Committees, to review the performance and effectiveness of all the Council's work and the standards and level of service provided, to review the need to retain existing services, and to co-ordinate where necessary all the matters referred to in this sub-paragraph in respect of the Committees and Services of the Council.
- (5) To ensure that the organisation and management processes of the Council make the most effective contribution to the achievement of the Council's objectives, to keep them under review in the light of changing circumstances, making recommendations as necessary for change in either the Committee or management structure, or the distribution of functions and responsibilities.

and to determine any matter not delegated to another Strategic Committee or reserved to the Council in terms of this Constitution.



## **2.3 Community Services and Environment, Development and Infrastructure Committee**

- 2.3.1 (1) Advise the Policy and Resources Committee and the Council in the development of service objectives, policies and plans concerned with service delivery within the functional areas noted below and manage performance.
- (2) Monitor and review achievement of key outcomes in the Service Plans within the functional areas noted below by ensuring best value in the use of resources to achieve these key outcomes is met within a performance culture of continuous improvement and customer focus.
- (3) Subject to the exclusions from and limitations of delegations set out in this scheme, and the terms of reference and authority of the Policy and Resources Committee, each Committee is authorised to discharge the powers and duties of the Council within the functional areas noted below in accordance with the policies of the Council, and the relevant provisions in its approved revenue and capital budgets.
- (4) Undertake community engagement in terms of Council's community engagement strategy in respect of their service area.

### **Community Services Committee**

All of the functional area within the Community Services department not otherwise reserved to the Council or the Policy and Resources Committee including, without prejudice to the foregoing generality, the following:-

#### **Education and Lifelong Learning**

The relevant functional areas relating to children and families, school, pre-school, child protection, young people, community learning and development, and lifelong learning.

#### **Social Services and Criminal Justice**

The relevant functional areas relating to community care, community health and wellbeing, offender services, housing, poverty, community regeneration/development, community safety, voluntary sector, leisure and sport.

For the avoidance of doubt, it shall discharge the powers and duties 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.

## **Environment, Development and Infrastructure Committee**

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

### **Economic Development**

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

### **Environment and Transport**

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

## **2.4 Area Committees**

- 2.4.1 (1) Subject to the exclusions and limitations set out in paragraphs 2.1.3, 2.1.4 and 2.1.5 of this Scheme, an Area Committee is authorised to discharge the powers and duties of the Council 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 Scorecards within the Council's Planning and Performance Management Framework (PPMF) and Corporate Plan framework outcomes.
- (3) To monitor and review the local delivery of key services by ensuring -
- (a) appropriate performance measures are in place, and to monitor the relevant PPMF Area scorecard
  - (b) best value in the use of resources to achieve these key outcomes is met within a performance culture of continuous improvement and customer focus.
- (4) To approve expenditure as follows:-
- (a) revenue or capital expenditure within any allocation and criteria delegated to an Area Committee by the Council
  - (b) in response to applications for financial assistance within any framework and criteria approved by the Council

- (5) Subject to the terms of reference or delegation to any other body of Members or an officer in terms of this scheme, to determine issues of a local and non strategic nature relating to all of the Council's services and functions within any framework and criteria approved by the Council from time to time.
  - (6) To support, and encourage effective collaboration and co-ordination between and within community based organisations operating in the local area.
  - (7) To lead the Council's participation in the Area Community Planning Group
  - (8) To give effect to the Community Engagement Strategy at a local level
  - (9) The regulatory functions of the Council under the Road Traffic Regulation Act 1984 and Roads (Scotland) Act 1984 including to introduce, make, review, amend or revoke any order, or give any direction or notice for application only within the sub-area for which the Committee has responsibility
  - (10) To play a lead local role in the formation of the Local Development Plan (LDP), within any framework and criteria approved by the Council from time to time.
  - (11) To undertake pre application consultations in respect of relevant designated applications for planning permission, within any framework and criteria approved by the Council from time to time.
- 2.4.2 To authorise the acquisition, sale or lease of land or buildings within the area provided in the case of an acquisition there is budget for the costs of doing so.
- 2.4.3 To allocate, in accordance with criteria agreed by the Council, the additional income generated through Council tax on empty properties, provided that in doing so it will not create an ongoing revenue cost for the Council, without the approval of the Policy and Resources Committee.
- 2.4.4 To develop, implement and oversee any existing or future capital projects within their area, provided that a business case for the implementation of each project has been submitted to and approved by the Policy and Resources Committee before any tender award is made.
- 2.4.5 To determine applications for bridging finance from voluntary groups in accordance with criteria to be agreed by the Council from time to time and subject to the approval of the Policy and Resources Committee if the decision is contrary to the recommendation of the Head of Strategic Finance.

## **2.5 Planning, Protective Services and Licensing Committee**

- 2.5.1 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.
- 2.5.2 The Committee is authorised in respect of the functions referred to paragraph 2.5.3 and 2.5.2 below:-
- (a) to introduce, make, review, amend or revoke any order, rules or bye-law or give any direction or notice.
  - (b) to determine any application for any permission or licence (including the holding of any hearing which may be required arising from any statute, statutory regulation or administrative procedure of the Council) and the enforcement of the relevant legislation in respect of the Council's functions in relation thereto.
  - (c) to take any other steps in relation to any of the functions which the Committee may consider necessary or desirable.
- 2.5.3 Functions referred to in 2.5.2 above are -
- (a) To determine major developments as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 where approval of the application, would not in the opinion of the Executive Director - Development & Infrastructure Services be a significant departure from the Development Plan, where there has been a significant body of objections ie more than 10 individual objections on planning, policy or land use grounds.
  - (b) To determine any application which requires an Area Capacity Evaluation to be undertaken as part of the policy assessment.
  - (c) To determine applications for planning permission defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 as "local developments", which are not otherwise delegated to the Executive Director - Development & Infrastructure Services ie (1) where there has been a significant body of objections ie more than 10 individual objections on planning, policy or land use grounds, (2) or where the application is one which is required by legislation or regulation to be determined by the Committee.

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

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

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

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

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

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

## **2.6 Short Life Working Groups**

SLWGs will be appointed in terms of the Scheme of Administration and Delegations which is referred to in Standing Order 26.

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 Short Life Working Group.

#### 2.6.1 Meetings of SLWGs

Without prejudice to the general right of the Council, to appoint a SLWG at any time, a minimum of any six Members may propose that a SLWG should be established; the following procedure will apply to the establishment of a Group on its proposal by Members.

- 2.6.1.1 The Members concerned will set out in a notice to be given to the Executive Director of Customer 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 Council might usefully require in order to reach a decision whether or not to establish such a Group.
- 2.6.1.2 The Executive Director of Customer Services will include the proposal, together with the written material provided by the Members, on the agenda for the next following ordinary meeting of the Council.
- 2.6.1.3 In considering a proposal (whether or not submitted in terms of subparagraph (1) above) to establish a SLWG, the Council may (a) 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 or (b) in the circumstances where (a) does not apply the Council shall resolve either to require a report from the appropriate officer on the implications of establishing such a group in respect of the resources required to take forward the work of the group, the current status (if any) of Council policy on the matter and any other matters relevant to their deliberations to a future meeting of the Council or (c) decline to establish such a group without further deliberation.
- 2.6.1.4 When a SLWG is established, the Council 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.
- 2.6.1.5 Whilst normally a SLWG will report and provide advice to the Council, the Council when establishing a Group may direct that the SLWG reports, instead or in addition, to another constituent part of the Council.

- 2.6.1.6 At the end of the period mentioned in sub-paragraph (4) of this Standing Order the Group will cease to exist unless before the end of that period the appointing body has substituted a revised period.
- 2.6.1.7 It will be open to the Council at any time in the event that it considers the resources available to support the work of SLWGs are insufficient, to agree that no further Groups should be established or that the number in total should be limited. If such a decision is made no proposal to establish a SLWG Group which would be contrary to the Council resolution shall be considered unless and until the Council has altered or rescinded that resolution.
- 2.6.2 The arrangements for meetings of a SLWGs will be a matter for the 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.
- 2.6.3 In addition to any report or paper submitted by an Officer of the Council, any Member of a SLWG 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 SLWG in relation to that report or paper.
- 2.6.4 In addition to the consideration of any report or paper submitted by a Member or Officer, a SLWG 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.
- 2.6.5 While the minimum quorum for an effective meeting of a SLWG 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.
- 2.6.6 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.

## **2.7 Performance Review and Scrutiny Committee**

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

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

### **Performance Review**

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

- a) The Planning and Performance Management Framework and the quarterly performance reports to committee.
- b) External inspection reports e.g. School Inspections.
- c) The Community Planning Partnership and other major partnership projects.
- d) Specific performance reports requested by the committee.
- e) Ad hoc performance reports presented to the Committee by Chief Officers.
- f) Any other reports of a performance-related nature.

**(2)** Making recommendations to the Council on performance matters in relation to (1) above.

### **Scrutiny**

**(1)** Monitoring the delivery of corporate improvement programmes and ensuring that they are progressing in line with corporate aims and objectives. Reporting the findings and recommendations to the Council.

**(2)** Commenting on decisions and policies agreed by the Council and other committees and the impact they have on Argyll and Bute as an area, and making recommendations as appropriate to the Council.

**(3)** Inviting Lead Councillors to attend and elaborate on Council decisions or proposals.

## **2.8 Audit Committee**

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

Specific terms of reference are –

### **2.8.1 Audit Activity**

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



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

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

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

To commission work from Internal and External Audit;

To consider the performance of Internal and External Audit;

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

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

To promote good financial practice within the Council;

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

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

### **2.8.2 Regulatory Framework**

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

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

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

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

### **2.8.3 Financial Accounts and Governance**

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

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

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

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

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

#### **2.8.4 Delivery Achieving Monitoring**

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

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

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

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

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

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

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

### **2.9 Appeals Committees**

#### **2.9.1 Staffing Appeals**

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

#### **2.9.2 Placing Appeals/Special Educational Needs**

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

#### **2.9.3 Education Appeals and Bursaries**

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

#### 2.9.4 Social Work Complaints Review

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

#### 2.9.5 Access to Personal Files Review

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