



**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

Sixteen 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 sixteen 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
- (9) 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.
- (10) 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.
- (11) 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.
- (5) For the avoidance of doubt holding an executive position does not allow such a member to take forward decisions on behalf of the Council on an individual basis.

### **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 unless otherwise determined by the Council at any time for 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

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.

#### Communities and Culture

Libraries, halls, arts and culture.

#### Social Services and Criminal Justice

The relevant functional areas relating to adult social work services, criminal justice services, housing and homelessness, community learning and development, libraries and culture, 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, agriculture, fisheries, renewables and tourism..

### **Environment and Transport**

The relevant function areas relating to the natural environment, roads transport, harbour and ferry 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, and provided that the transaction is deemed to be in accordance with any relevant Council policy.
- 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, and the project is within the scope of the agreed business case.

- 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 in paragraphs 2.5.3 and 2.5.8 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 Masterplan that is submitted to become Supplementary Guidance.

- (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 determine all consultative applications and assessments of a technical nature including to raise objections where the Executive Director – Development and Infrastructure Services has decided not to exercise his delegated authority to determine them.
- (h) 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 Applications for a High Hedge Notice where the Head of Planning and Regulatory Services is recommending that a Notice be issued under Section 6(5)3 of the High Hedges Act 2013.
- 2.5.8 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 sub-paragraph (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 Policy Lead Councillors to attend and elaborate on Council decisions or proposals.

## **2.8 Audit Committee**

The Committee's Terms of Reference are generally 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.

The specific Terms of Reference are as follows –

### **Constitution**

The Council has established a committee to be known as the Audit Committee.

#### **2.8.1 Key Activities**

- 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 including the level of assurance it can give over the Council's corporate governance arrangements internal control and risk management system; and to consider other specific Internal Audit reports.

- To consider the External Auditor's Annual Audit Plan, 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, External Audit and third parties where appropriate;
- To consider the performance of Internal and External Audit;
- To facilitate training to support the role of Audit Committee Members;
- To develop a culture of compliance within the Council to ensure the highest standards of probity and public accountability;
- To support best practice in the financial administration of the Council;
- 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;
- There should be a least one meeting a year, or part thereof, where the Audit Committee meets the Internal and External Auditors separately from management;
- The Committee will prepare an annual work plan setting out meeting dates for the financial year and anticipated internal audit, external audit and management reports expected to be covered at each meeting; and
- The Committee shall prepare an annual report to the Council covering its activities and key findings each year. This report will be considered at the Council meeting that agrees the External Auditor's annual audit letter

### 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 and seek assurance with regard to risk control measures through the review of the effectiveness of risk management systems 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.
- To monitor the Council's compliance with the Public Interest Disclosure Act and the Bribery Act in the discharge of its functions.

### 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:
  - (a) The expenditure approved by the Council has been incurred for the purposes intended;
  - (b) Services are being provided efficiently and effectively;
  - (c) Value for money is being obtained, all in accordance with Best Value requirements; and
  - (d) 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 Other Monitoring

- To assess the effectiveness of 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 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; and
- To review the impact of national performance reports from external bodies such as Audit Scotland and consider their impact on future audit plans in terms of audit work to be undertaken by both external and internal audit.
- The Chief Executive will attend one meeting per annum to report on how the Council is addressing its key strategic risks and other matters of interest.

## 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

## **SECTION THREE**

### **DELEGATIONS TO OFFICERS**

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

#### **3.1 Limitation of Delegations to Officers**

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

- (1) Officers will exercise the authority delegated to them having regard to and in accordance with the policies adopted by the Council from time to time; and will act in the interests of the Council;
- (2) Officers will comply with any appropriate departmental practice or procedure, of any managerial instruction given, and of any other similar consideration.
- (3) Officers will exercise the authority delegated to them in accordance with any relevant provisions contained elsewhere in the Council's Constitution;

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

## **3.2 General Delegations to Officers**

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

- 3.2.1 Appoint employees as required by them to discharge the functions of

the services for which they are responsible, within the overall budget approved by the Council for their Service. To dismiss employees, including in the delegation to the Chief Executive, Executive Directors of Service.

- 3.2.2 Apply and implement the terms of National and Local Agreements on Salaries and Conditions of Service to any post or posts and take such other decisions in relation to such posts and the employees who occupy them as they consider necessary in the interests of the effective operation of the Council's Services.
- 3.2.3 Conduct Disciplinary and Grievance proceedings and make appropriate determinations in accordance with the Council's approved Disciplinary and Grievance Procedures.
- 3.2.4 Select tenderers and award contracts in compliance with the Contract Standing Orders.
- 3.2.5 To take such measures as may be required to enable the Council to respond to an emergency situation, subject to advising as appropriate (a) the Leader, (b) the relevant Policy Lead, and where the emergency is likely to affect significantly a particular part of the Council's area (c) the Chair of the relevant Area Committee and (d) Ward Councillors, reporting to the Council as soon as possible thereafter, on any items of expenditure for which approval would normally be necessary.
- 3.2.6 To authorise suitably qualified officers to discharge functions set out in this Constitution on their behalf, and to sign and to issue –
  - (a) statutory notices on behalf of the Council under all relevant legislation applicable to the functions of their office
  - (b) authorisations to Officers to exercise statutory powers (including, where appropriate, the right to enter land and premises in connection with discharge of their duties), and
  - (c) identity cards, and such other similar authorisations as may be required, to Officers.
- 3.2.7 To pay valid claims for damage to, or loss of, property of employees occurring during the course of their employment or of members of the public, arising from the work of the Service concerned, up to £10,000 in respect of any one claim, subject to the approval of the Chief Executive in respect of any higher amount, and subject also to the requirement to ensure that appropriate notification is given and/or claims made on the relevant Council Insurance Policies.
- 3.2.8 To act as Proper Officer in terms of Sections 50(D) (1) (a) and 50(D) (5) of the Local Government (Scotland) Act 1973 (Background Papers).
- 3.2.9 To approve terms and conditions for the lease to or from a third party of

property to be held on their Service account, subject to the terms of Paragraph 2.1.5 (4).

- 3.2.10 To review and ensure compliance with the requirements of existing and new legislation and statutory regulations, and the Council's policies in respect of those matters.
- 3.2.11 Each Executive Director is authorised, in terms of arrangements made from time to time by the Chief Executive, to exercise the functions of the Chief Executive in her/his absence.
- 3.2.12 Each Executive Director, in respect of premises for which he/she has responsibility, is authorised to permit voluntary groups or others offering to execute on an ex gratia basis construction or improvement works within the curtilage of those premises subject to -
  - (a) she/he being satisfied as to the nature, extent and timetable of the works
  - (b) Public Liability/Employers Liability/Professional Indemnity Insurance for appropriate levels to the satisfaction of the Executive Director - Customer Services.
  - (c) the specification of the nature and extent of works, methodology, health and safety assessment, and qualifications/experience of those undertaking the works to the satisfaction of the Executive Director – Development and Infrastructure Services who will also assess the level of supervision and monitoring of the works which may be required.

### **3 Specific Delegations to Officers**

#### **(A) CHIEF EXECUTIVE**

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

- 1 The Chief Executive is Head of the Council's paid service in terms of Section 4 of the Local Government and Housing Act 1989.
- 2 The Chief Executive is principal advisor to the Council on all matters of policy and strategic direction and is responsible for the implementation of Council aims and priorities, including leading the delivery of Best Value and Community Planning.
- 3 The Chief Executive provides leadership, direction and motivation for staff and is responsible for the management of other resources to ensure

that the Council's policies and priorities are delivered in an efficient and effective manner.

- 4 To give a direction on the applicability of the Scheme of Delegations to an officer in any specific case, and power in special cases to direct that any official shall not exercise a delegated function except where –
  - (a) the officer concerned is exercising a statutory responsibility, or
  - (b) the officer concerned is exercising professional discretion or judgement
- 5 Power in an emergency to instruct executive action on any matter after consultation with the Leader or, in her/his absence, Depute Leader of the Council.
- 6 To determine gradings of categories of posts in implementation of review processes initiated within or out with the Council or to correct anomalies in the Council's salary structure as a consequence of review processes, within the limits of existing budgets.
- 7 To exercise the discretions available to the Council as employers in terms of the Local Government Pension Scheme after consultation with the Leader or, in her/his absence, the Depute Leader of the Council.
- 8 Where s/he considers that it would be in the interests of the Council to do so, to authorise visits by officers of the Council and others representing the Council out with the United Kingdom.
- 9 To designate (a) suitably qualified officer(s) to act as Trustees of the Group Life Assurance Scheme
- 10 To act as, or appoint a suitably qualified person to be, the "proper officer" for the purposes of Sections 34 of the Local Government (Scotland) Act 1973.
- 11 To authorise, in appropriate circumstances, reports to the Procurator Fiscal or Police on matters not otherwise covered within the Council's regulatory frameworks.
- 12 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).
- 13 To secure the provision of the electoral registration functions of the Council.



## **(B) EXECUTIVE DIRECTOR - CUSTOMER SERVICES**

The Executive Director - Customer Services is authorised -

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

- 11 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.
- 12 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.
- 13 To settle, without reference, up to a maximum of £100,000, any claims against the Council which involves or is likely to involve action against the Council in any Court or statutory tribunal.
- 14 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.
- 15 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.
- 16 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 Executive Director, she/he is satisfied that it is in the interest of the Council to do so.
- 17 In respect of Insurance -
  - (1) to take out the necessary insurances to protect the interests of the Council.
  - (2) to make arrangements with insurance companies concerning settlement of claims.
  - (3) in respect of claims not settled by or on behalf of the Council to settle up to a maximum of £100,000.
- 18 To consider and determine, where unopposed, applications for licences under the Gambling Act 2005.
- 19 To consider and determine, where unopposed, applications under Parts I, II and III of the Civic Government (Scotland) Act 1982; and to keep under review, where appropriate, the levels of fees charged for particular licences, and the level of taxi fares throughout the area of the Council.
- 20 To carry out of prosecutions under Section 43(2) of the Education (Scotland) Act 1980, where he/she considers it appropriate.
- 21 To determine applications for House Loans and other financial assistance under Part XII of the Housing (Scotland) Act 1987 after

consultation with the Executive Director - Community Services and the Head of Strategic Finance.

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

requirements of the Council within the terms of the Contract Standing Orders.

- 33 To maintain a list of all heritable property owned or leased by the Council and to appeal rating assessments in respect of council property and determine the conduct and settlement of any such appeal.
- 34 To issue decision notices on reviews determined by a Local Review Body under the terms of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 35 To undertake all building maintenance work (excluding housing account work) within approved expenditure either by Direct Labour or by the use of maintenance contractors subject to the provisions of the Contract Standing Orders.
- 36 To inspect, assess, instruct and supervise repairs and maintenance of Council property.
- 37 To arrange for any necessary alterations or adaptations, up to a value of £25,000 on any one project for the purpose of realising the service potential or commercial potential of a property owned or leased by the Council, subject to provision being available within the relevant budget.
- 38 To arrange and provide cleaning services in Council property as required within approved expenditure, either by directly employed staff or by the use of contractors.
- 39 To arrange and provide a catering service for the relevant services of the Council within approved expenditure either by directly employed staff or the use of contractors.
- 40 To act as, or arrange for the appointment of, a suitably qualified officer to 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.
- 41 To review the Asset Management Plans prepared by Services and co-ordinate these into an overall Council Asset Management Plan.
- 42 To designate a suitably qualified Officer to administer the Car Leasing Scheme.

### **(C) EXECUTIVE DIRECTOR - COMMUNITY SERVICES**

The Executive Director - Community Services is authorised –

- 1 To determine applications for the provision of footwear and clothing for pupils at public schools, in terms of Section 54 of the Education (Scotland) Act 1980.
- 2 To arrange programmes of in-service training for teachers.

- 3 To arrange in-service courses for Chaplains to schools as and when considered desirable.
- 4 To carry out the functions of the Council as Education Authority in relation to the provision of education for recorded children in terms of the Education (Additional Support for Learning) Scotland Act 2004.
- 5 To implement rates of fees for educational establishments used by the Council outwith the Council's area.
- 6 To carry out the administration, assessment and award of any education bursaries or other related forms of assistance.
- 7 To fix the levels of any tuition fees, examination expenses, and determine rates of pay to examination invigilators.
- 8 To approve the participation of school pupils and supervising staff in cultural, social and recreational visits in and outwith the United Kingdom and the reception of visiting pupils and staff.
- 9 To approve temporary exchange visits by teaching staff in and outwith the United Kingdom.
- 10 To make grants to pupils to enable them to attend courses and conferences and to undertake educational visits and excursions at home and abroad.
- 11 To make the necessary arrangements for the boarding out of pupils and for the allocation of hostel accommodation.
- 12 To issue licences in terms of the Children (Performances) Regulations 1968.
- 13 To determine applications received from schools for arrangements to be made for visits during school terms.
- 14 To provide courses in educational training for outside agencies and to negotiate appropriate charges for these services.
- 15 To ensure that requisite provision is made for any pupil entitled in terms of Section 53(3) of the Education (Scotland) Act 1980 to receive refreshment in the middle of the day.
- 16 To make grants to pupils from schools within the Council's area or normally resident within the area who are selected to join national youth orchestras or similar national music, drama or dance companies in respect of fees and attendance at courses.
- 17 To increase, in cases of hardship, and at his discretion, the amount of grant awarded to school pupils attending part-time courses at the Royal

Scottish Academy of Music and Drama and the Scottish Ballet School up to a maximum of the cost of fees and travelling expenses.

- 18 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.
- 19 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.
- 20 To consider and determine all placing requests under Section 28 of the Education (Scotland) Act 1980 as amended by Section 43 of the Standards in Scotland's Schools Act 2000 in accordance with the guidelines formulated by the Council.
- 21 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.
- 22 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 Executive Director considers it is appropriate to accept the request.
- 23 To exercise, at his discretion, the powers available to the Council as Education Authority in relation to the exclusion of pupils from schools.
- 24 Where not otherwise determined by a Parent Council, to determine the dates of occasional local school holidays after consultation with any appropriate Parent Council.
- 25 To accept and administer any Educational Trusts or small endowments which may be offered to the Council for schools in its area.
- 26 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.
- 27 To exercise the functions of the Council in terms of Section 50 of the

Education (Scotland) Act 1980 and Section 35 of Children (Scotland) Act 1995, (provision of travelling facilities and accommodation in exceptional circumstances).

- 28 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.
- 29 To carry out the education functions of the Council under Part X of and Schedule 9 to the Children Act 1989.
- 30 To determine requests for access to and amendment of records in terms of the Pupil Educational Records (Scotland) Regulations 2003.
- 31 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.
- 32 To approve attendance by Community Learning and Development employees on authorised Youth Exchange visits overseas where the employees, as part of their duties, are required to accompany the group undertaking the exchange.
- 33 To authorise Head Teachers in Schools to approve appointments, where considered necessary and where budgetary provision exists, of temporary non-teaching staff in schools.
- 34 To determine school staffing levels within the limits of resources provided by the Council.
- 35 To authorise the use of budgetary resources in conjunction with partner organisations in the pursuit of agreed corporate policies.
- 36 To authorise the distribution of the educational hypothecated resources received from the Scottish Government within the policies determined for this purpose by the Council.
- 37 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.
- 38 To secure improvement in the quality of school education with a view to raising standards of education.
- 39 To prepare the annual statement of education improvement objectives.
- 40 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.

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



- 55 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 Children (Scotland) Act 1995 including and in addition where not otherwise included -
- i Section 12 of the 1968 Act 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 of the 1968 Act under which the Council may assist in the disposal of produce of work undertaken by persons in need.
  - iii Section 14 of the 1968 Act under which the Council is required to provide home help and laundry facilities for persons in need, etc. subject to the recovery by the Executive Director on the appropriate scale as may be determined by the Council; but subject also to the Executive Director being empowered to abate or waive home help charges to avoid hardship according to the personal and financial circumstances of the client in accordance with policies approved by the Council.
  - iv Section 17 and 25 of the 1995 Act which imposes on the Council duties to receive and keep in care in certain circumstances any child in need.
  - v Section 80 of the Adoption and Children (Scotland) Act 2007 which authorises the Council to make an application for a permanence order in respect of a child.
  - vi To ensure that in terms of Section 17 of the 1995 Act, 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 25 of the 1995 Act which imposes on the Council a duty in certain circumstances to provide accommodation for a child in care.
- viii Section 26 of the 1995 Act which empowers the Council to provide accommodation for a child looked after by them by placing him/her with a family relative or any other suitable person or maintaining him/her in a residential establishment or make other suitable arrangements; and Section 32 which empowers the Council to remove any child from a residential establishment.
- ix Section 30 of the 1995 Act which empowers the Council to grant financial assistance to persons over school age but under 21, who are now, or have at any time after ceasing to be of school age, been in the care of the Council, to enable them to meet expenses in connection with their maintenance, education or training, in accordance with any policies approved by the Council.
- x Section 29 of the 1995 Act which imposes on the Council a duty of aftercare in respect of any child over school leaving age who was at the time when she/he ceased to be of that age or at any subsequent time but is no longer in the care of the Council or of a voluntary organisation, in accordance with any policies by the Council.
- xi Section 28 of the 1968 Act which empowers the Council to make arrangements for the burial or cremation of any person who was in the care of or was receiving assistance from the Council at the date of death and to recover where appropriate any expenses so incurred which are not recoverable under the National Insurance Act 1965.
- xii Section 29 of the 1968 Act which empowers the Council to pay the expenses incurred by a parent, relative or other person visiting a person in the care of the Council, or incurred in attending the funeral of a person who was in the care of or was receiving assistance from the Council if it appears that the parent or relative or other person would otherwise be caused unnecessary hardship in making the visit and that the circumstances warrant the making of the payment.
- xiii Section 144 of the Children's Hearing (Scotland) Act 2011 which requires the Council to give effect to a supervision requirement made by a Children's Hearing for its area.
- xiv To authorise the emergency transfer of placement of a child subject to a supervision requirement in terms of Section 143 of the Children's Hearings (Scotland) Act 2011.

- xv Section 131 of the Children's Hearings (Scotland) Act 2011 which requires the Council to seek review by a Children's Hearing of a supervision requirement in certain circumstances.
- xvi To arrange or assist in arranging holidays or other absences appropriate to the needs of the child, of any child in the care of the Council in accordance with the policies of the Council.
- xvii To carry out the functions of the Council under Section 48 of the National Assistance Act 1948 relating to the temporary storage of furniture in certain circumstances on behalf of certain persons.
- xviii To appoint Mental Health Officers in terms of the Mental Health (Care and Treatment) (Scotland) Act 2003.
- xix To provide aids and adaptations for the homes of handicapped persons within the budget available for this purpose and in accordance with the policies of the Council.
- xx To carry out the functions of the Council in relation to the Adoption of Children in terms of the Adoption and Children (Scotland) Act 2007 and the Children Act 1995.
- xxi To carry out the functions of the Council as Care Authority under the Looked After Children (Scotland) Regulations 2009.
- xxii To determine assistance with legal fees (in consultation with the Executive Director - Customer Services) and medical expenses in relation to adoptions.
- xxiii To determine applications for the revision of maintenance rates for private/voluntary sector homes outwith the provisions of the National Health Service and Community Care Act 1990.
- xxiv To determine fees for curators ad litem, foster parents and community carers in accordance with Council policies.
- xxv To exercise the functions of the Council in relation to the National Health Service and Community Care Act 1990 for the purpose of implementing the Council's policies in relation to financial assessment systems for chargeable services within packages of community care.
- xxvi To enter into contracts with private and voluntary agencies for the provision of services relative to the Council's policies in relation to the discharge of its functions under the National Health Service and Community Care Act 1990.

- xxvii To authorise the Executive Director - Community Services to make direct payments in terms of the Community Care (Direct Payments) Act 1996 and the Community Care & Health (Scotland) Act 2002 to service users who meet the eligibility criteria to purchase their own services.
- 56 To designate the Chief Social Work Officer to act as the proper Officer, and serve any notice and take any action on behalf of the Council, in relation to the Council's functions in regard to -
- i The Chronically Sick And Disabled Persons Act 1970 and the Disabled Persons (Services Consultation And Representation) Act 1986.
  - ii Part IV of the Children And Young Persons (Scotland) Act 1937.
  - iii The National Assistance Act 1948
  - iv The Disabled Persons (Employment) Act 1958.
  - v The Matrimonial Proceedings (Children) Act 1958.
  - vi The Adults with Incapacity (Scotland) Act 2000.
  - vii Sections 51, 217, 235, 236 and 237 of the Criminal Procedure (Scotland) Act 1975.
  - viii The Children (Scotland) Act 1995.
  - ix The Adoption and Children (Scotland) Act 2007.
  - x The Adoption (Scotland) Act 1978.
  - xi Sections 21 to 23 of the Health And Social Services And Social Security Adjudication Act 1983.
  - xii The Mental Health (Care and Treatment) (Scotland) Act 2003.
  - xiii The Foster Children (Scotland) Act 1984.
  - xiv Sections 38(b) of the Housing (Scotland) Act 1987.
  - xv The Crime and Disorder Act 1998
  - xvi The Management of Offenders (Scotland) Act 2005
  - xvii The Childrens' Hearings (Scotland) Act 2011.
- 57 To manage the swimming pools, public halls and other indoor recreational facilities provided or operated by the Council and to take action as may be necessary.

## **(D) EXECUTIVE DIRECTOR - DEVELOPMENT & INFRASTRUCTURE SERVICES**

The Executive Director - Development & Infrastructure Services is authorised –

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

But excepting from that generality the following types of applications:

- P(a) Any category of application which Ministers direct in terms of Section 26(a)(3) of the Planning Etc Scotland Act 2006 be not determined by an officer;
- L(b) Any application, which attracts a significant body of objection ie more than 10 individual objections on planning policy or land use grounds;
- P(c) Any application made by an elected Member of the Planning Authority.

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

- P2 To determine applications for major developments which in the opinion of the Executive Director - Development & Infrastructure Services would not be a significant departure from the development plan and for which there had been no significant body of representation ie 10 or less objections on planning policy or land use grounds.
- L3 To determine applications for variation of planning consents under Section 64 of the Town and Country Planning (Scotland) Act 1997.
- L4 In consultation with the Executive Director - Customer Services to determine that a public local inquiry be held in connection with any particular appeal against refusal of planning permission or similar procedure, and in that respect to determine the Council’s position on any appeal against a non determination of an application.
- L5 To determine certificates of lawfulness in terms of Section 150 and 151 of the Town and Country Planning (Scotland) Act 1997.
- L6 To determine all consultative applications and assessments of a technical nature under Delegated Legislation including the power to raise objections.

- L7 To determine prior notifications included in and introduced by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and revocations and modifications to planning permissions under Sections 65, 66, 67 of the Town and Country Planning (Scotland) Act 1997 where there are no significant objections ie ten or less objections on planning policy or land use grounds.
- L8 To determine hazardous substances consents in terms of the Planning (Hazardous Substances) (Scotland) Act 1997 where there are no significant objections, ie 10 or less objections on planning policy or land use grounds.
- L9 To determine applications for Listed Building and Conservation Area consents in terms of the Planning (Listed Building and Conservation Area) Scotland Act 1997 and applications under the Town and Country Planning (Control of Advertisement) Scotland Regulations 1984, where there are no significant objections, ie 10 or less objections on planning policy or land use grounds.
- L10 To exercise the powers to serve “Contravention Notices” in terms of Section 125 of the Town and Country Planning (Scotland) Act 1997 prior to formal enforcement action.
- L11 To exercise the powers to take action against fly posting in terms of Section 187 of the Town and Country Planning (Scotland) Act 1997.
- L12 To exercise the power to approve or refuse all proposed works to trees in Conservation Areas and trees protected by Tree Preservation Orders.
- L13 To refuse applications which were the subject of Section 75 Agreements when the applicant had not concluded the Section 75 Agreement within 4 months of being notified of the requirement to do so.
- L14 To deal with enforcement complaints where after investigation no breaches of planning control have been identified.
- L15 Service of a Breach of Condition Notice.
- L16 To undertake and determine screening and scoping opinions of planning applications under the Environmental Impact Assessment (Scotland) Regulations and under the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2008 .
- L17 To determine whether to institute enforcement proceedings on (1) any breach of planning control under all relevant legislation and to make service of any relevant notice or order, and under the High Hedges Scotland Act 2013.
- L18 To act as the proper officer for the statutory functions of the Council

under all relevant legislation relating to the functions of the Council as Planning Authority, and to issue all necessary decision notices or other statutory documents as may be required.

- L19 To appoint as inspectors and authorised officers for the purpose of the administration and enforcement of the legislation referred to in the foregoing paragraphs such officers as he/she may deem necessary and appropriate.
- L20 In terms of Part 1 of the Land Reform (Scotland) Act 2003 –
- i. To sign and issue statutory written notices;
  - ii. To deal with enforcement complaints where after investigation no breaches of Sections 14 or 23 or any bye-law made under Section 12 have been identified;
  - iii. To authorise officers to enter on to land not owned or under the control of the Council to carry out remedial works under Sections 14, 15 and 23;
  - iv. To authorise reports for submission to the Procurator Fiscal;
  - v. To approve or refuse all applications for a one to five day Land Exemption Orders;
  - vi. To recommend approval to Scottish Ministers for six day to two year Land Exemption Order applications and amendment, revocations and re-enactment of Orders previously granted where no significant objections are received;
- 21 To grant applications and issue completion and other related Certificates, and refuse unappealed applications under the Building (Scotland) Acts. To issue an order under the said Acts in terms of demolishing or making good a dangerous building, including notices under Section 13 of the Building (Scotland) Act.
- 22 To determine the award of assistance under the terms of Schemes of Business Development, including Business Gateway, or Employment Support approved from time to time by the Council.
- 23 To determine tenders and approve public and school transport contracts of under £200k.
- 24 To act jointly with the Chief Constable in the provision of road safety.
- 25 For the avoidance of doubt, that in respect of delegations to determine local applications in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, to authorise the Executive Director - Development & Infrastructure Services to appoint the Head of Planning and Regulatory Services and/or such other Officers as he may determine, from time to

time, to exercise the functions of the Council in making such determinations, in accordance with said regulations.

#### **NOTE 1**

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

- 26 To determine applications for Houses in Multiple Occupation in terms of the mandatory scheme under the Civic Government (Scotland) Act 1982.
- 27 To determine applications for licences and registrations under the Petroleum Acts, the Explosives Act, the Poisons Act and similar legislation.
- 28 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.
- 29 To grant authorisation in terms of the Water (Scotland) Act 1980 relating to private water supplies.
- 30 To act as or appoint a suitably qualified officer to act as Access Officer, Home Safety Officer, Animal Welfare Officer and Chief Inspector of Weights and Measures.
- 31 To act as the proper officer for the Statutory Functions and obligations of the Council under all current, relevant legislation relating to Environmental Health, Animal Welfare, Trading Standards, Fire Precautions.
- 32 To exercise or to designate a suitably qualified officer to exercise the powers and duties of the Council and of an Inspector and authorised Officer (including powers of entry, inspection, sampling, seizure of goods and services, opening containers, seizure and initiating prosecutions, where appropriate) under any relevant legislation.
- 33 To determine applications for licences in respect of caravan sites.
- 34 To carry out the following functions of the Council in terms of the Roads (Scotland) Act 1984:-
  - (1) Under Section 13 the service of appropriate notices in relation to the imposition on frontagers of the requirements to make up and maintain private roads;
  - (2) Under Section 15 in relation to the completion of necessary



work in private roads occasioned by an emergency (other than an emergency constituted by a danger as defined in Section 91);

- (3) Under Section 16(1)(b) in relation to the consideration and determination of applications for the adoption of private roads as public;
- (4) Under Section 18 in relation to the adoption of footpaths associated with development;
- (5) Under Section 21 in relation to applications for construction consent for new roads built by a person other than the Roads Authority;
- (6) Under Section 23 in relation to stopping up or temporarily closing any new road constructed by a person other than the Roads Authority, without consent or in contravention of, or in non-compliance with, a condition imposed by a construction consent;
- (7) Under Section 31(3) in relation to the service of notices in connection with the drainage of public roads or proposed public roads, on the owner and occupier of the land affected;
- (8) Under Section 35(1) and (4) and after giving notice in terms of Section 35(5) in relation to the provision of road lighting and related structures;
- (9) Under Section 51 in relation to the authorisation and withdrawal of authorisation for the planting and maintenance of trees, shrubs, grass and other plants by a person other than the Roads Authority within the boundaries of a public road;
- (10) Under Section 56 in relation to the authorisation of works and excavations in or under a public road;
- (11) Under Section 57 in relation to the prevention or termination of dangerous works or excavations in or under a public road;
- (12) Under Section 58 in relation to the granting of permission for the deposit of building materials on roads;
- (13) Under Section 59 in relation to the control of obstructions in roads;
- (14) Under Section 60 in relation to the marking, lighting and fencing of obstructions or roadworks and for shoring buildings requiring protection in similar circumstances;
- (15) Under Section 61 in relation to granting permission to place

- and thereafter maintain apparatus in or under a public road;
- (16) After consultation with the Chief Constable under Section 62 in relation to the temporary prohibition or restriction of traffic on roads for reasons of public safety or convenience;
  - (17) Under Section 63 in relation to the imposition of the requirement to construct new accesses across road verges or footways where appropriate;
  - (18) Under Section 64(2) in relation to the issue of consent to statutory undertakers for work on footways, footpaths or cycle tracks in connection with their apparatus in terms of Section 64(1)(b);
  - (19) Under Section 66 in relation to enforcing maintenance of vaults, arches, cellars, tunnels and related structures within the vicinity of a road;
  - (20) Under Section 67 in relation to enforcing safety provisions countering outward opening doors, gates, window shutters or bars interfering with the safety or convenience of road users;
  - (21) Under Section 78(2) in relation to the service of notices prior to the diversion of waters where necessary in connection with the construction, improvement or protection of a public road;
  - (22) Under Section 79, to negotiate terms and enter into agreements with bridge owners in relation to future maintenance obligations;
  - (23) Under Section 83 in relation to the prevention of obstruction of the view of road users at or near corners, bends and junctions;
  - (24) Under Section 85 in relation to granting permission for the location of Builders' skips on roads;
  - (25) Under Section 86 in relation to the removal or repositioning of any Builder's skip which is causing or is likely to cause, a danger or obstruction;
  - (26) Under Section 87 in relation to the removal from roads of unauthorised structures and the consequent reinstatement of the site;
  - (27) Under Section 88 in relation to the removal of projections interfering with safe or convenient passage along a road;
  - (28) Under Section 89 in relation to the removal of accidental obstructions from roads;

- (29) Under Section 90 in relation to the granting of consent for fixing or placing over, along or across a road any overhead bridge, beam, rail, pipe, cable, wire or other similar apparatus;
  - (30) Under Section 91 in relation to the prevention of danger to road users and the prevention of obstructions caused by roadside vegetation, fences or walls;
  - (31) Under Section 92 in relation to granting consent for planting trees or shrubs within five metres of the edge of the made-up carriageway;
  - (32) Under Section 93 in relation to the protection of road users from dangers near a road;
  - (33) Under Section 94 in relation to the infill of dangerous ditches adjacent to or lying near a road;
  - (34) Under Section 99(2) in relation to the issue of consent to persons undertaking works or excavations necessary to 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.
- 35 To carry out the following functions of the Council in terms of the Road Traffic Regulation Act 1984:-
- (1) Under Section 14 in relation to the temporary prohibition or restriction of traffic on roads;

- (2) Under Section 23 in relation to pedestrian crossings on roads other than trunk roads;
  - (3) Under Section 65 in relation to the placing of traffic signs;
  - (4) Under Section 68 in relation to the placing of traffic signs in connection with the exercise of other powers of the Authority as defined in Sub-Section (1) thereof;
  - (5) Under Section 69 in relation to the removal of signs;
  - (6) Under Section 71(1) in relation to the power to enter land in connection with the placing, replacing, converting and removing of traffic signs;
- 36 To arrange for the advertisement of any proposal for the making, revocation, or variation of Orders and Schemes under The Road Traffic Regulation Act 1984; and Sections 68, 69, 70 & 71 of the Roads (Scotland) Act 1984 and where no objections have been received to make the order in the terms promoted by the Council.
- 37 To grant wayleaves in respect of public utilities;
- 38 To deal with all requests for information in connection with grant applications made under Section 8 of the Railways Act 1974 (Grants to assist the provision of facilities for freight haulage by rail);
- 39 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;
- 40 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;
- 41 To agree terms for Bridge Agreements with the British Railways Board and terms of discharge of the Council's liability for annual maintenance and renewal charges in that connection;
- 42 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;
- 43 To make arrangements for the management of piers, harbours, car parks, jetties, aerodromes and landing strips etc.
- 44 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 has 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;
- 45 To accept invitations to carry out road and footpath lighting works;
- 46 To enter objections on behalf of the Council to applications for Goods Vehicle Operators' Licences, under Section 12 of the Goods Vehicles (Licensing of Operators) Act 1995.
- 47 To carry out the functions of the Council in terms of the Strathclyde Regional Council Order Confirmation Act 1990 -
- (1) 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;
  - (2) 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
  - (3) 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;
- 48 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;
- 49 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:

- 50 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.
- 51 To act as appointed officer in terms of the Dutch Elm Disease (Local Authorities) Order 1984.
- 52 To authorise reports for submission to the Procurator Fiscal with a view to the initiation of proceedings under all relevant delegated legislation.
- 53 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.
- 54 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.
- 55 To arrange for street cleaning, the provision of public conveniences and the provision of a school crossing patrol service.
- 56 To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's Oil Pollution Officer.
- 57 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;
- 58 To determine Applications under the High Hedges Scotland Act for a high hedge Notice where no action is proposed to be taken.
- 59 To carry out the whole functions of the Council in relation to decriminalised parking scheme within Argyll and Bute as constituted by the Road Traffic (Permitted Parking Area and Special Parking Area) (Argyll and Bute Council) Designation Order 2014 and related legislation including without prejudice to the foregoing generality:
  - (a) To set the level of penalty charges and other related charges in accordance with any guidance given by the Scottish Ministers whether such guidance is given to the Council as parking authority or to local authorities generally.

- (b) To authorise such members of staff as he/she thinks fit to be parking attendants with the full powers of parking attendants as provided for in the relevant legislation including *inter alia* the power to issue Penalty Charges Notices in appropriate circumstances.
- (c) To take such steps as are competent and necessary to recover all sums that may become due following the issue of such Penalty Charge Notices.

#### **(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.