



**SCHEME OF DELEGATION AND RESPONSIBILITIES
TO OFFICERS AND STATUTORY APPOINTMENTS**

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1. Introduction

1.1. This Scheme of Delegation and Responsibilities to Officers and Statutory Appointments was approved by Dumfries and Galloway Council on 17 December 2015 in terms of section 56 of the Local Government (Scotland) Act 1973 and to meet the requirements of Section 50G (2) of the Local Government (Scotland) Act 1973. The scheme contains details of those functions, both statutory and non-statutory, which the Council has chosen to delegate to Officers.

1.2. This Scheme of Delegation and Responsibilities to Officers and Statutory Appointments needs to be read and used alongside the Council's Procurement Standing Orders, Financial Regulations, Scheme of Administration and Delegation to Committees, and Standing Orders relating to Meetings which together make up the wider framework of governance within the Council. Dumfries and Galloway Council's Code of Governance is based upon the principles of:

- Openness;
- Accountability;
- Responsiveness;
- Democracy.

1.3. The Scheme of Delegation and Responsibilities to Officers and Statutory Appointments contributes to the Code of Governance and these fundamental principles by defining a route for certain decisions enabling the Council to be:

- Speedy and responsive in taking decisions;
- Efficient – by freeing the formal decision making structures of the Council to focus on key strategic decisions which have to be taken under full public scrutiny; and
- Accountable – by holding appropriate staff fully accountable for the decisions they take.

2. Core Principles

2.1. The Council has determined that all powers which are not specifically reserved to Council, Committee, Sub-Committee or Joint Boards are delegated to Officers. The matters reserved to Council or Committees are mainly the strategic policy or regulatory issues requiring to be decided by the Council, while the day to day matters of running the Council's services are delegated to Officers.

Powers Reserved to Council

General Principles

2.2. Delegated powers should not be exercised by Officers where any decision would represent a departure from Council policy or procedure or would be contrary to a standing instruction of Council (or Committee), or would itself represent a significant development from policy or procedure. The only exception to this is in the case of urgency where the Chief Executive may, after consultation with the Chairman and Vice-Chairman of the appropriate Committee, exercise delegated powers. Should such powers be exercised in urgent circumstances, a report will be submitted to the next appropriate Committee for the decision to be homologated.

2.2.1 Nothing in this Scheme prevents an Officer from seeking authority from Committee should that Officer consider there are circumstances which merit a Member decision.

2.2.2 This Scheme is intended to cover day to day operational activities. In circumstances where Officers seek additional powers on a general or particular basis, the powers requested must be fully specified and regular updates must be provided to Committee, including details of any proposed major variations to what was originally considered at Committee.

Specific powers reserved for Council or Committee

2.3. The powers which are reserved to the Council or its Committees are a mixture of those which must, in terms of statute, be reserved, and those which the Council has, itself, chosen to reserve. Powers which are not reserved are delegated, in accordance with the provisions of this Scheme.

2.4. The following is a comprehensive list of what is reserved to the Council or Committee, categorised as statutory and non statutory:

Statutory Reservations

2.4.1. Changing the name of the Council in terms of Section 23 of the Local Government (Scotland) Act 1973.

2.4.2. The appointment of the Leader and Depute Leader of the Council and early removal from office.

2.4.3. The appointment of Committees in terms of Section 57 of the Local Government (Scotland) Act 1973.

- 2.4.4. The promotion and opposition of private legislation in terms of Section 82 of the Local Government (Scotland) Act 1973.
- 2.4.5. Setting Council Tax in terms of Section 56(6) of the Local Government (Scotland) Act 1973.
- 2.4.6. To receive the uncertified abstract of the Council's annual accounts.
- 2.4.7. Consideration of reports by the Head of Paid Service made under Section 4 of the Local Government and Housing Act 1989.
- 2.4.8. Consideration of reports by the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- 2.4.9. To decide whether or not to divide the Council's area into licensing divisions and whether or not to revoke a previous determination, in terms of Section 5 of the Licensing (Scotland) Act 2005 and to elect members to the Boards in terms of Schedule 1 to the Licensing (Scotland) Act 2005.
- 2.4.10. To determine planning applications for national developments as specified in the National Planning Framework.
- 2.4.11. Determination of applications for major developments which are significantly contrary to the local development plan.
- 2.4.12. Preparation and review of the Scheme for Community Councils (Special meeting).

Non Statutory Reservations

- 2.4.13 Fixing (and amending) the constitution, membership and functions of Committees and appointing Chairmen, Vice Chairmen and Members of Committees.
- 2.4.14 Determining all matters relevant to the appointment of Senior Councillors in terms of the Local Government in Scotland Act 2004 (Allowances and Expenses) Regulations 2007.
- 2.4.15 Determining the Council's annual revenue budget and capital programme.
- 2.4.16 Determining the process for selection, appointment and dismissal of the Chief Executive, any Chief Officer or such other officers required by Statute to be appointed or dismissed only by the Council.
- 2.4.17 Appointment of the Monitoring Officer and the Returning Officer.
- 2.4.18 The consideration of statutory reports from the Controller of Audit, or from the Council's External Auditor.
- 2.4.19 Reviewing delivery of the Health and Social Care Strategic Plan, on an annual basis, in relation to functions delegated by the local authority within the Integration Scheme, between NHS Dumfries and Galloway and Dumfries and Galloway Council.
- 2.4.20 Reviewing the Health and Social Care Integrated Budget for the Integration Joint Board, as part of the annual budget process and funding provided to support delegated functions.

- 2.4.21 Lead change and improvement across the Council including through the Business Transformation and Shape of the Council Programme and lead on improving the links between policy and budgets.
- 2.4.22 The determination of arrangements for the administration of common good funds and other trusts (but excluding endowments intended for the benefit of specified schools) for which the Council is responsible.
- 2.4.23 The making (and as necessary) revocation or amendment of byelaws.
- 2.4.24 The making (and amendment) of Schemes of Administration and Delegation.
- 2.4.25 The making (and amendment) of Standing Orders.
- 2.4.26 Granting the Freedom of Dumfries and Galloway.

Delegations to Officers

2.5. Every attempt has been made to list the specific powers which are available to Officers. However if a specific power is not mentioned in this Scheme of Delegation and Responsibilities to Officers and Statutory Appointments, it does not necessarily mean that Officers cannot exercise that power. Unless it has been specifically reserved to Council, the power will still be delegated to Officers. The powers reserved by Council are detailed at 2.4 above. In case of doubt the Chief Executive has power to determine the Officer to whom the power is delegated. The undernoted powers are delegated to Officers of the Council:

- 2.5.1. The Chief Executive or appropriate Chief Officer will have delegated responsibility for all matters in respect of the operation, development and implementation of policy for the service area assigned to them unless specifically reserved to the Council or other Committees or contrary to the principles listed above (Powers Reserved to Council), together with such Statutory Duties as may have been specifically and personally assigned to them.
- 2.5.2. The Chief Executive and/or the appropriate Chief Officer will be responsible for the appointment of all posts except Chief Officers required by statute to be appointed only by the Council
- 2.5.3. Such delegations are at all times to be exercised in accordance with the relevant law, and the Council's Procurement Standing Orders, Financial Regulations, Scheme of Administration and Delegation to Committees and Standing Orders relating to Meetings and other relevant policies and procedures.
- 2.5.4. Powers delegated to specific Officers may be further delegated by them except where prohibited by statute.

General Restrictions on Exercise of Delegated Powers by Officers

2.6. If any decision proposed under delegated powers might lead to a budget being exceeded, the Officer must consult with the Chairman of the appropriate Committee, and the Chief Executive or Head of Finance and Procurement (the

Council's Chief Financial Officer / Section 95 Officer) and consider whether Committee approval is required, before exercising the delegated power.

2.7. Chief Officers must ensure that the Chairman of the appropriate Committee is, where appropriate, consulted on matters of a controversial nature as listed at 2.8 below. Where appropriate, such matters should be referred to Council or the appropriate Committee for decision.

2.8. In particular, and without prejudice to the foregoing, Chief Officers will exercise particular care in determining whether a matter is to be regarded as controversial in the following circumstances. The Chief Executive will be the final arbiter of whether a matter is controversial:

- 2.8.1. Where determination of the issue may involve a decision contrary to local or national policy or the determination may lead to a breach of a relevant Code of Guidance.
- 2.8.2. Where it is proposed that any issue be determined contrary to significant objections or the strong recommendation of Statutory Consultees.
- 2.8.3. The Officer proposes to determine the matter, or act in a manner, contrary to the recommendation of other officers whom he/she is obliged to, or has chosen to, consult with.
- 2.8.4. There are perceived public safety or significant public policy issues dependent on the determination (save in the case of urgency as aforesaid).
- 2.8.5. Standing Orders, National or International regulation requires determination otherwise.
- 2.8.6. There are questions of legality or financial advisability/probity involved.

2.9. The provisions of the Scheme of Delegation and Responsibilities to Officers and Statutory Appointments are intended to assist in the efficient and effective management of the Council's activities and to foster a culture of responsiveness to customers and service users. In applying the scheme, it is important that officers pay due regard to the need for appropriate periodic reporting of delegated decisions to members of the Council, both for information purposes and to allow Councillors to properly discharge their scrutiny role.

New Legislation and Updating of Powers

2.10. Amendments to the Scheme may be made by the Head of Legal and Democratic Services if this is not in conflict with, or contradictory to any statutory provision, the Council's Standing Orders, Council Policy or delegation to another Officer. Effect may be given to such extension immediately and this Scheme will be amended accordingly.

2.11. Any such amendment to this Scheme will be reported to the next meeting of Full Council.

Sub-Delegation

2.12. The Council promotes the principle that decisions should be made at the lowest or most local level consistent with the nature of the issues involved. The functions delegated to the Chief Officers are therefore also exercisable by other officers within the Council, such that decisions are taken as close to the point of service delivery as is appropriate in the circumstances.

2.13. The approach in this Scheme to setting out the delegations of authority to officers is to require the delegations to be given to the Council's Chief Officers, who are the Chief Executive, Directors and Heads of Service. These officers can, in turn, delegate any of their delegated authority to other officers under their direction, except where this would be contrary to legislation.

2.14. Dumfries and Galloway Council therefore hereby authorises any Officer with specific delegated powers, duties or responsibilities referred to within this scheme to delegate further any of these powers etc. to other appropriate Officers within their service. In exercising any delegated function the nominated officer will take account of any appropriate Directorate practice or procedure, any managerial instruction given, and any other similar consideration.

2.15. The sub-delegations should be in accordance with the Job Description of the individual that the matter is being delegated to, and/or documented fully in writing, with a copy of such further delegations provided to the Director Corporate Services. In particular, Heads of Service will ensure that service managers and other officers to whom authority is delegated are held accountable for the effective general management, allocation and control of resources within their respective service areas.

2.16. A Director may also arrange for powers delegated to them to be exercised by another Director. When powers are delegated to another Director both Directors must retain a written record of the delegated powers in question.

Interpretation

2.17. In the scheme the following words shall have the meanings assigned to them, that is to say:

- "Act" means the Local Government (Scotland) Act 1973;
- "1994 Act" means the Local Government Etc (Scotland) Act 1994;
- "2003 Act" means the Local Government in Scotland Act 2003;
- "2014 Act" means the Public Bodies (Joint Working) (Scotland) Act 2014;
- "Council" means Dumfries and Galloway Council;
- "Chief Officer" means the Chief Executive, the Directors, the Chief Officer Health and Social Care Integration and Heads of Service, all as appointed by the Council.

2.18. Any reference to any Act of Parliament shall be construed as a reference to the Act of Parliament as from time to time amended, extended or re-enacted and shall include any byelaws, statutory instruments, rules, regulations, orders, notices, directions, consent or permissions made thereunder. Any reference to any statutory instrument, regulation or order shall be construed as a reference to that instrument, regulation or order (as the case may be) as from time to time amended, extended or re-enacted.

2.19. Subject to the foregoing provisions of this paragraph, the Interpretation Act 1978 shall apply to the interpretation of the scheme as it applies to the interpretation of an Act of Parliament.

Alteration of Scheme

2.20. Subject to the provisions of the Act the Council shall be entitled to amend, vary or revoke the scheme from time to time. As a minimum, there shall be an annual review of the Scheme.

2.21. The financial limits as set by the terms of this scheme shall be reviewed and confirmed as appropriate / amended accordingly during the annual review.

Consultation with Chief Executive

2.22. The Scheme of Delegation and Responsibilities to Officers and Statutory Appointments as set out in the following sections is at all times subject to the right of an Officer to consult with the Chief Executive on any matter, even though it has been specifically delegated to him or her particularly and to a duty so to consult where instructed or directed by the Chief Executive.

Absence of Director

2.23. The Chief Executive is authorised to exercise every power delegated to Directors and Officers, whether in their absence or otherwise except where:

2.23.1. It is part of a statutory function delegated to that specific Director or Officer; or

2.23.2. The power derives from a function delegated by the Council to Dumfries and Galloway Integration Joint Board.

Statutory appointments of officers

2.24. In terms of various statutes, the Council is required to appoint officers for a variety of particular purposes. Officers appointed to perform these statutory roles are empowered to take such action as is implicit in their roles. They have an important independent role in promoting and enforcing good governance and for making sure that the Council complies with legislation. The statutory appointments that have been made by the Council are detailed later in this document (section 5).

3. Delegation to Chief Officers – General Provisions

3.1. The Chief Executive, Directors and, unless specifically withheld, Heads of Service will have the following powers delegated to them:

3.2. All powers necessary for the general management of the directorates or services for which they are responsible including, but not limited to, the power to:

- 3.2.1. Appoint staff in accordance with Council policy and Standing Orders.
- 3.2.2. Authorise special leave for staff in accordance with the provisions of the Council's Scheme of Special Leave.
- 3.2.3. In consultation with the Head of Service (OD, HR and Assets), grant leave of absence with salary to enable staff to undertake approved part-time courses.
- 3.2.4. Authorise staff attendance at conferences/seminars and training courses for all staff.
- 3.2.5. Authorise directorate expenditure up to limits permitted in the Financial Regulations, on such items as have been allowed for in the appropriate capital and revenue budgets.
- 3.2.6. To authorise staff to undertake functions delegated to the Director or Head of Service as may be deemed appropriate and expedient, provided such staff are suitably qualified.
- 3.2.7. To sign and issue the necessary authorisation to Officers of the Council to exercise statutory powers including where appropriate the rights to enter land and premises in connection with the discharge of their duties and any identity cards so required by the Council.
- 3.2.8. All such other powers as delegated by the Council, a Committee, a Sub-Committee, the Council's Standing Orders and Financial Regulations.
- 3.2.9. To authorise and pay for the attendance of individual employees at training or conferences and to authorise and reimburse the professional membership fees of individual employees.
- 3.2.10. To appoint or make recommendations as to the engagement of specialists in accordance with any decision taken by the Council.
- 3.2.11. To manage and monitor the performance of the services which are the responsibility of the Directorate.
- 3.2.12. To take such measures as may be required in emergency situations, subject to advising the Chief Executive as soon as possible thereafter on any items for which Committee approval would normally be necessary. This includes any Contract for the execution of works which are urgently required for the prevention of damage to life or property.
- 3.2.13. To enter into contracts for the supply of goods and materials, the execution of works and the provision of services where there is adequate provision in the estimates and in accordance with the Council's

- Procurement Standing Orders or let in terms of a framework agreement to which the Council is a party.
- 3.2.14. To sell surplus stores, plant, furniture and equipment, including any IT equipment, for the best price obtainable and write off any such stores, plant, furniture and equipment which have become unfit for use and are un-saleable, subject to the Procurement Standing Orders and any relevant Council policies.
- 3.2.15. To deal with, and in appropriate circumstances, to approve applications from employees for reimbursement of reasonable legal expenses, in part or in whole, incurred in defending any actions raised against them personally, providing:
- They are acting within the course of their employment;
 - In accordance with Council procedures;
 - In good faith.
- 3.2.16. To respond to consultation papers unless the response recommends a departure or significant development of Council policy or procedure or is contrary to a standing instruction of Council or Committee.
- 3.2.17. To amend the organisational structures of their Directorate/Services including the number and designation of posts subject to the following conditions:
- The appropriate Committee Chairman has been consulted;
 - The costs of the amendments are within the existing revenue budget and this is confirmed by the Head of Finance and Procurement;
 - The Head of Service (OD, HR and Assets) approves the grading, conditions of service and designation of posts.
- 3.2.18. In accordance with the Council's approved Human Resource policies, including approved Disciplinary and Incapability Procedures, take disciplinary action including dismissal, as appropriate, in respect of employees in their relevant Service.
- 3.2.19. Action virement within the overall revenue budgets for their Services in accordance with the Financial Regulations and Codes of Financial Practice subject to confirmation by the Head of Finance and Procurement or representative.
- 3.2.20. To support and facilitate public consultation exercises, including for example in relation to the budget consultation.
- 3.2.21. To provide such support and assistance as the Returning or Counting Officer may request in relation to elections or referenda.
- 3.2.22. To authorise responses to the Information Commissioner in relation to Freedom of Information requests.

3.3. In relation to the foregoing delegations, in the event that the relevant Chief Officer considers it inappropriate to deal with a matter under delegated powers, the matter may be referred by him or her to the relevant Committee for a decision.

3.4. Delegations to Officers are always subject to the provisions of 2.6 to 2.9 of the Scheme.

4. Delegations to Officers - Specific Provisions

Chief Executive

4.1. The Chief Executive is the Leader of the Council's Management Team and has overall responsibility for the strategic management of Council services and the leadership of Council staff. The following specific functions of the Council are delegated to the Chief Executive:

- 4.1.1. To act as Head of Paid Service in terms of Section 4 of the Local Government and Housing Act 1989. The duties of the Head of Paid Service are detailed at section 5.
- 4.1.2. To act as the principal policy adviser to the Council on matters of general policy and to assist Members to formulate clear objectives and affordable programmes having regard to changing political priorities, statutory and financial requirements and community needs and expectations.
- 4.1.3. To ensure that a corporate approach to the management and execution of the Council's affairs is maintained and that advice to the Council is given on a co-ordinated basis.
- 4.1.4. To lead the Council's Management Team.
- 4.1.5. To monitor the performance of all Directors.
- 4.1.6. To take such action as may be required to ensure that the correct significance is given by the Council's staff to the achievement of the overall policy objectives of the Council.
- 4.1.7. To give clear direction and ensure the visibility of the office of Chief Executive as the central focus for leading and co-ordinating the Council's staff.
- 4.1.8. To advise on staffing requirements.
- 4.1.9. Subject to the provisions of Council policies and procedures, to determine the organisation, appointment and proper management of the Council's staff.
- 4.1.10. In consultation with the Head of Service (OD, HR and Assets), to exercise all discretions available to the Council in terms of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 and the Local Government (Discretionary Payments and Injury Benefits)(Scotland) Regulations 1998.

- 4.1.11. To ensure that effective and equitable employment policies are developed and implemented throughout all Directorates of the Council in the interests of the authority and its staff.
- 4.1.12. To authorise the implementation of national and local agreements relating to pay and conditions of service of employees or Councillors in consultation with the Head of Service (OD, HR and Assets).
- 4.1.13. To give direction on the applicability of the scheme and where appropriate that any Officer shall not exercise a delegated function; except where (a) it is part of a statutory function delegated to that Director or officer or (b) the power derives from a function delegated by the Council to Dumfries and Galloway Integration Joint Board.
- 4.1.14. To deal, in consultation with the Leader of the Council, with applications for the patronage of the Council, the use of the Council's Coat of Arms subject to the provisions of Lord Lyon King of Arms and for the use of municipal buildings.
- 4.1.15. In an emergency to instruct executive action and incur expenditure on a report from the appropriate Director on any matter, after consultation with the Leader of the Council as appropriate.
- 4.1.16. To alter and issue, as required, job descriptions in respect of Chief Officers and other officers in accordance with Council duties and functions.
- 4.1.17. To exercise every power delegated to Directors or Officers except where (a) it is part of a statutory function delegated to that Director or Officer or (b) the power derives from a function delegated by the Council to Dumfries and Galloway Integration Joint Board.
- 4.1.18. To refer matters to the Police, in terms of the Council's defalcation procedure.
- 4.1.19. To act as Authorising Officer under the Regulation of Investigatory Powers (Scotland) Act 2000 for all types of authorisation, including the authorisation of a person under age 18 to act as a covert human intelligence source. To appoint other Officers to act as Authorising Officers for all such functions except the authorisation of a person under age 18 to act as a covert human intelligence source.
- 4.1.20. All powers ancillary to or reasonably necessary for the proper performance of the Chief Executive's general responsibilities.
- 4.1.21. To terminate on behalf of the Council any contract which the Council is entitled to terminate under appropriate conditions of contract where, after consultation with the appropriate Chief Officer, the Chief Executive is satisfied that it is in the interests of the Council to do so.
- 4.1.22. To manage, in conjunction with the Chief Executive of NHS Dumfries and Galloway, the Chief Officer Health and Social Care Integration.

Director Corporate Services

4.2. The Director Corporate Services has overall responsibility for the following services:

- **Finance and Procurement:** Financial strategy and accounting; Pension Fund; Treasury and Insurance; Pay and Employment; Accounts receivable and payable; Procurement and Purchasing.
- **Organisational Development, Human Resources and Assets:** HR strategy and Policy; Pension Administration; Organisational development; Workforce Planning; Health and Safety; Property and Estate Asset Management / Energy Management.
- **Legal and Democratic Services:** Democratic Support and Elections Management; Legal and Licensing; Policy Development and Advice; Audit and Risk; Council Communications; Transformation and Improvement; Complaints, Data Protection, Freedom of Information and Information Governance.
- **Business and Technology Solutions:** Networks and telecommunications; Applications and systems; Desktop, telephony and mobile services; Information management; Business system development.
- **Assessor and Electoral Registration Office.**

4.3. The Director Corporate Services will also perform the duties of Depute Chief Executive to cover periods of absence of the Chief Executive. When the Chief Executive is absent the Depute Chief Executive will have all the delegated authority of the Chief Executive.

4.4. The Director Corporate services is responsible for the leadership and co-ordination, planning and policy and the strategic and operational management of the services and without prejudice to the foregoing generality, such delegated powers are detailed below.

4.5. The Director Corporate Services and the Head of Finance and Procurement are authorised to:

Finance

- 4.5.1. Produce, and regularly review the Financial Regulations of the Council and any Codes of Financial Practice made thereunder.
- 4.5.2. Ensure that proper systems of control are maintained throughout the Council and that Services comply with Council policy, legislation, financial regulation and codes of financial practice issued thereunder.
- 4.5.3. Prepare and monitor revenue and capital budgets for General Services and any other funds provided to the Council in accordance with the Financial Regulations.

- 4.5.4. Be the primary point of contact with external audit and provide support, information and recommendations to external auditors.
- 4.5.5. The provision of financial services to other bodies, organisations, etc. subject to a charge being made where appropriate.
- 4.5.6. Ingather all monies due to the Council and enforce payment thereof.
- 4.5.7. Authorise disposal or write-off of surplus materials, stores, or equipment where the value does not exceed £10,000.
- 4.5.8. Write off debts, if satisfied that they cannot reasonably be recovered, up to limits set within and in conformity with the Financial Regulations.
- 4.5.9. In consultation with the appropriate Director, and up to limits set within and in conformity with the Financial Regulations and any approved policy, authorise the transfer of approved estimates from one head of expenditure to another, within a Service/Directorate.
- 4.5.10. Collection and accounting of income / miscellaneous charges, and arrears recovery.
- 4.5.11. Pay salary and wages and make associated arrangements for payment of Council paid employees.

Treasury Management

- 4.5.12. Act as the Proper Officer for the purposes of Section 92 of the Act relating to the transfer of securities.
- 4.5.13. Make the necessary arrangements for duly authorised borrowing and lending in terms of Section 165 of the 1994 Act.
- 4.5.14. Act as Proper Officer in terms of Sections 92, 193(1) and 194 of the Act for the signing of all stock certificates, bonds and mortgages.
- 4.5.15. Act as Registrar of Stocks, Bonds and Mortgages.
- 4.5.16. Borrow and invest monies as required for the purposes of the Council's Treasury functions (within the terms of the Council's Treasury Policy Statement) and perform Debt Rescheduling as appropriate.
- 4.5.17. Make payments by cheque or other instrument.
- 4.5.18. Authorise the signature of cheques and other appropriate financial documentation on behalf of the Council.

Procurement

- 4.5.19. Enquire into the financial standing of any tenderer who may be accepted in relation to any contract.
- 4.5.20. Undertake procurement functions for the Council including entering into framework agreements, central purchasing arrangements, maintenance of The Council's Contract Register, preparation of advice and policies relating to procurement and support and assistance to Council services in undertaking procurement.

4.6. The Director Corporate Services and the Head of Organisational Development, Human Resources and Assets are authorised to:

Organisational Development and Human Resources

- 4.6.1. Carry out all matters relating to staffing, recruitment, promotion and transfer within the Council's policy and apply the pay grading and conditions of service as agreed by the Council in respect of their employees.
- 4.6.2. Supervise and, so far as necessary, administer the Council's Personnel Policies and Procedures.
- 4.6.3. Develop and maintain human resources and organisational development policies and procedures.
- 4.6.4. Authorise employee terms and conditions associated with Council Policies and Procedures, Appeals, Health and Safety, National Agreements and Pension Regulations (Special Leave, Recruitment and Selection, Dignity at Work, Annual Leave, Discipline and Grievance, etc), Health and Safety and Training.
- 4.6.5. Contribute to the effective operation of the Council's Employment and Appeals Sub-Committee, Joint Consultative Group, Joint Safety Committee, and the Local Negotiating Committee for Teachers.
- 4.6.6. Undertake on behalf of the Council negotiations and discussions with Trade Unions and other employee organisations concerned with the interests of Council employees.
- 4.6.7. Approve salary placings within the agreed salary scales in consultation with the appropriate Director.
- 4.6.8. Implement national pay awards and amendments to national and local rates of travel, subsistence and other allowances.
- 4.6.9. Apply all matters which conform to the national conditions of service and local conditions of service of all categories of employees of the Council.
- 4.6.10. After consultation with the appropriate Director to approve the acceleration of increments within existing salary scales to employees.
- 4.6.11. In consultation with the appropriate Director to approve applications for the termination of employment on medical grounds where such recommendations are made by the Council's Occupational Physicians.
- 4.6.12. Following consultation with appropriate Director to provide to the Local Government Adjudicator for Scotland on behalf of the Council, certificates required for the purposes of Section 3(3) of the Local Government and Housing Act 1989 in relation to exemption of post from political restrictions.
- 4.6.13. Co-ordinate the Council's arrangements for obtaining reports relating to potential criminal convictions.
- 4.6.14. Manage and support the Council's policies on absence at work and to enter into arrangements for the provision of Occupational Health, counselling or other services to support employees.

- 4.6.15. Enter into agreements and deliver human resources and organisational development services to other bodies.
- 4.6.16. Make arrangements for staff recognition and reward.
- 4.6.17. Undertake employee consultation surveys.
- 4.6.18. Support and assistance to Council services to enable them to comply with duties under the Health and Safety at Work Act 1974 and other legislation relating to health and safety.
- 4.6.19. Be the primary point of contact with the Health and Safety Executive in matters relating to the health and safety of Council premises or services.
- 4.6.20. In consultation with the appropriate Director to submit comments to the Scottish Public Services Ombudsman and the Pensions Ombudsman into alleged maladministration.

Assets

- 4.6.21. Manage the Council's buildings.
- 4.6.22. In respect of the Council's property portfolio consisting of land, buildings and all heritable assets including way leaves, servitudes, licences and agricultural and grazing leases to authorise all purchases and sales up to a value of £150,000 or leases (whether of Council property or third party property the Council occupies) with an annual rental of £50,000, renewals of leases, rent reviews, rent free periods and assignments of sub leases in accordance with the Council's Estates Management Policy, Procurement Standing Orders, any scheme of sub-delegation prepared by the Director setting out the level of staff able to authorise particular transactions, and the provisions of the Local Government (Scotland) Act 1973 and regulations made thereunder. Sales and Leases **of Council property** at less than market value must have Committee approval.
- 4.6.23. Authorised to agree sub-leases and assignments of leases on receipt of statutory references on completion of appropriate checks to ensure suitability of the incoming tenant.
- 4.6.24. Authorise, in respect of leases, sub-leases and assignments to consent to rent free periods.
- 4.6.25. Authorised to terminate leases (whether of Council property or third party property the Council occupies) of at their natural expiry date and at any break point detailed in lease agreement and to agree terms for the renunciation of leases prior to their natural expiry.
- 4.6.26. Authorised to agree lease rentals at review periods.
- 4.6.27. Authorised to agree to extensions and variations to existing lease agreements, subject to the extensions or variations not extending the term of the existing lease by a period in excess of 10 years.
- 4.6.28. Authorised, where arrears of rent have arisen, to instruct the Head of Legal and Democratic Services to raise appropriate action necessary in order to recover the arrears and/or to secure vacant position of the heritable property and if any other term of lease has been breached, to

- instruct the Head of Democratic Services to use the standard breach of contract remedies available which she/he considers appropriate.
- 4.6.29. Authorised to proceed with the repairs to land, commercial and industrial premises in the ownership of the Council subject to budgetary provisions.
 - 4.6.30. Authorised to enter in to wayleaves, servitudes and leases with statutory bodies and other providers of utility services who require rights over land for particular purposes.
 - 4.6.31. Authorised to negotiate and settle all claims arising from the exercise of the Council's powers to enter upon and take land in the discharge of statutory powers.
 - 4.6.32. Authorised to proceed with the repairs and maintenance to the Council's operational property portfolio within approved policies.
 - 4.6.33. Authorised to determine requests for rent abatement.
 - 4.6.34. Subject to the Council's Procurement Standing Orders to arrange for the demolition and clearance of buildings declared surplus by the Council where this is to be considered in the interest of the Council, and subject to advising the relevant Chair and local Elected Members.
 - 4.6.35. Authorised to apportion office accommodation amongst Council services and to arrange for any necessary alterations or adaptations to such accommodation.
 - 4.6.36. Authorised to ensure the proper application of the Council Asset Management Plans with respect to property including space standards etc.
 - 4.6.37. Authorised to provide landlords consent on sub-leases to Council owned land and properties and to authorise contributions to capital incentive packages up to a value of £75,000 if within budget provision in accordance with Statutory Aid provisions.
 - 4.6.38. Maintain the Council's Property Asset Register and keep a record of all property assets owned by the Council.
 - 4.6.39. Monitor the energy performance of buildings in terms of the Energy Performance of Buildings (Scotland) Regulations 2008.

4.7. The Director Corporate Services is authorised to:

Business and Technology Solutions

- 4.7.1. The provision of efficient and effective Information Technology and Telecommunications Systems, including advice, appropriate to the needs of the Council and its Directorates.
- 4.7.2. Keep under review the provision of Information Systems to Council directorates and the local community.
- 4.7.3. Monitoring the integrity, effectiveness and economic utilisation of all information technology bases processing facilities.
- 4.7.4. Maintaining an inventory of hardware, software, application and telecommunications equipment for the purposes of insurance, hardware

(preventative) maintenance, applications auditing, software licensing, asset management and technical support.

- 4.7.5. Authorise appropriate software licensing and other ICT Contracts.
- 4.7.6. In conjunction with the relevant Chief Officers, maintain ICT/Security Policies and Procedures.
- 4.7.7. Ensure that all computer information processing conforms to the Data Protection Act 1998.

4.8. The Director Corporate Services and the Head of Legal and Democratic Services are authorised to:

Legal Services

- 4.8.1. Act as “Proper Officer” for the purposes of relevant section of the Local Government (Scotland) Act 1973 in respect of the production of reports; the listing of background papers; the retention of documents, receipt of notices of any legal proceeding served on the Council and for the receipt of any notice, order or any other document required or authorised by any Act to be sent, delivered or served to or upon the Council or to the Proper Officer and report for the prescribed period and other related matters.
- 4.8.2. Act as “Authorised Officer” together with such members of his/her staff designated by him/her in terms of the Civic Government (Scotland) Act 1982 to grant non-contentious applications for licenses in terms of the Civic Government (Scotland) Act 1982 and to be responsible for the administration and control of all relevant licenses in respect thereof and to issue all notices of suspension or revocation of same as may be necessary in connection therewith.
- 4.8.3. Make arrangements for the opening and witnessing of all tender returns in excess of £100,000 for goods and services and £1,000,000 and above for works, recording the date and time of receipt in accordance with the Council’s Procurement Standing Orders.
- 4.8.4. Act as Senior Responsible Officer in connection with authorisations for covert surveillance permitted under Section 6 and 7 of the Regulation of Investigatory Powers (Scotland) Act 2000 and to maintain a register of use of such.
- 4.8.5. Maintenance of the Register of Interests in terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000.
- 4.8.6. Undertake amendment of the Scheme of Delegation and Responsibilities to Officers and Statutory Appointments and Scheme of Administration and Delegation to Committees as required to take account of new or amended legislation, Council policies and procedures etc.
- 4.8.7. Engage Counsel or external legal firms as may be appropriate in connection with the Council’s legal business and to appoint Parliamentary agents as and when he/she may consider it necessary.

- 4.8.8. Settle without reference to the Council or its Sub-Committees, claims arising in terms of statute in respect of compensation following compulsory or voluntary acquisition or other statutory process provided all the statutory requirements have been met.
- 4.8.9. Issue or have issued by other Officers, Statutory Notices on behalf of the Council.
- 4.8.10. Institute and defend proceedings on behalf of the Council.
- 4.8.11. Negotiate and agree extra judicial settlements and to withdraw from legal proceedings, including proceedings before any court, tribunal, enquiry, regulatory body etc.
- 4.8.12. In consultation with the relevant Director to settle claims and legal actions against the Council of whatever nature not otherwise covered by the Council's insurance arrangements (and including without prejudice the foregoing generality planning appeals, employment tribunals and land tribunals) up to a maximum of £100,000 and in addition to agree appropriate fees and expenses in connection with those settlements.
- 4.8.13. Settle 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.
- 4.8.14. In consultation with the relevant Director, authorise ex-gratia payments up to a maximum of £5,000 relative to recommendations by the Scottish Public Services Ombudsman.
- 4.8.15. Custody of all titles and standard securities in the Council's favour.
- 4.8.16. Implement reports from the Council's Valuer with regard to leasing of property, rent reviews and acquisition or disposal of land.
- 4.8.17. Investigate complaints in terms of the Council's whistleblowing procedures.
- 4.8.18. Have access at any time to any Council premises, offices or premises of contractors for the purposes of inspecting all documents and interviewing staff (either employed or contracted) in pursuit of the examination, verification or inspection of any system operated by the Council or any Directorate thereof and to require the production of any information in whatever form including disclosure under the Data Protection Act and to implement changes arising therefrom.
- 4.8.19. Undertake any acquisition, disposal, lease etc of property or land on the basis of terms recommended by the Head of Service (OD, HR and Assets) subject to compliance with the terms of the Council's Scheme of Administration and Delegation to Committees and Procurement Standing Orders.
- 4.8.20. Set and revise periodically all fees for Legal Services.

Licensing Services

4.8.21. Be authorised:

- In respect of all Civic Government Licensing (under exception of the Licensing of Houses in Multiple Occupation which were delegated to another Service);
- In respect of the Hypnotism Act 1952 to process and grant authorisations, with conditions;
- In respect of The Fireworks (Scotland) Regulations 2004 to process and grant applications for dispensation where no adverse comments have been received;
- In respect of the Cinemas Act 1985 to process and grant applications where no adverse comments have been received;
- In respect of the Theatres Act 1968 to process and grant applications where no adverse comments have been received.

4.8.22. Be authorised in respect of all Civic Government Licensing (under exception of the Licensing of Houses in Multiple Occupation which were delegated to another Service) to:

- Grant applications for temporary and full licences subject to conditions where there is no objection or it is not recommended for refusal;
- Consult on material changes intimated by licence holders, which do not involve premises, vehicles or vessels;
- Process and grant consent to material changes involving premises, vehicles and vessels where there are no adverse comments from the Chief Constable, Chief Fire Officer or other statutory consultees;
- To excuse late applications for renewal of licences, if satisfied with the reason and if the application is received within 28 days of the expiry of the existing licence;
- Invoke interim suspension of licences under paragraph 12 of Schedule 1 to the 1982 act and revoke interim suspension, where the serious threat to public order or safety which required the suspension, has been addressed, and;
- Arrange suspension hearings before the Licensing Panel under paragraph 11 of Schedule 1 to the 1982 Act including giving the notice to the licence holder, Chief Constable, Chief Fire Officer and anyone making a complaint against the licence holder and all other preliminary statutory requirements;
- Extend the period of the licence where the holder of the licence has died and the Executors are winding up the deceased's estate. (Apart from taxi and private hire driving licences, where the holder of a licence dies the licence is deemed to be granted in the name of his executor and unless revoked suspended or surrendered remains in force until the end of 3 months beginning with the death of licence holder. The licence would then expire but the Licensing Authority may from time to

time on the application of the Executors extend that period if satisfied that the extension is necessary for the purpose of winding up the deceased's estate.);

- Grant exemptions for particular occasions, following consultation and subject to conditions reflecting that consultation, relating to Late Hours Catering (the Licensing Authority is empowered to grant an exemption either for one particular occasion or during a specific period not exceeding 2 months. Conditions may be applied).

4.8.23. Determination of the following are delegated to the Clerk of the Board and his staff in terms of the Licensing (Scotland) Act 2005:

- an application for a transfer of premises licence where the applicant has not been convicted of a relevant offence or a foreign offence and the Chief Constable is not recommending refusal;
- all applications for variation of a premises licence where the variation is a minor variation;
- all applications for personal licences or for the renewal of personal licence where the applicant has not been convicted of a relevant offence or a foreign offence or the Chief Constable is not recommending refusal;
- all applications for occasional licences where there is no notice of objection or representation or no notice from the Chief Constable recommending refusal;
- grant of extensions of licensed hours for a special event of local or national significance (following consultation with the Convener) except for Wigtown Divisional Licensing Board where all applications for Extended Hours including those which have attracted objections and/or for hours outwith the Board's Licensed Hours Policy are delegated;
- grant of extended hours applications where the Chief Constable has not submitted an objection and (following consultation with the Convener) for hours outwith policy except for Wigtown Divisional Licensing Board where all applications for Extended Hours including those which have attracted objections and/or for hours outwith the Board's Licensed Hours Policy are delegated.

4.8.24. Determination of the following are delegated to the Clerk of the Board and his staff in terms of the Gambling Act 2005:

- all applications for premises licences where no representations have been received or representations have been withdrawn;
- all applications for a variation to a licence where no representations have been received or representations have been withdrawn;
- all applications for transfer of a licence where no representations have been received from the Gambling Commission;

- all applications for a provisional statement where no representations have been received or representations have been withdrawn;
- all applications for club gaming/club machine permits where no objections have been made or objections have been withdrawn;
- all applications for other permits;
- cancellation of licensed premises gaming machine permits;
- consideration of temporary use notices;
- all applications for and Registration of Small Society Lotteries (all administrative tasks and other actions and activities including cancellation of registration for non-payment of annual fee).

4.8.25. Act as authorised officers/persons in terms of the Civic Government (Scotland) Act 1982, Licensing (Scotland) Act 2005 and Gambling Act 2005.

Democratic Services

- 4.8.26. Prepare and adjust as necessary the calendar of meetings and holidays in consultation with the Leader and Depute Leader of the Council, as appropriate.
- 4.8.27. Provide assistance to Councillors by provision of appropriate accommodation, facilities, training and support etc.
- 4.8.28. Provide advice to the Council on procedural and administrative matters and to ensure the provision of adequate administrative and other support for Council and its Committees and other bodies in respect of which the Council is the lead authority.
- 4.8.29. In consultation with the appropriate Director to submit comments to the Scottish Public Services Ombudsman and the Pensions Ombudsman into alleged maladministration.
- 4.8.30. Undertake the Council's duties relating to records management, to prepare a Records Management Plan and to maintain and manage a records management store.
- 4.8.31. Provide support and assistance to services in responding to requests under the Freedom of Information (Scotland) Act 2002 and to determine appeals lodged under this Act.
- 4.8.32. Provide support and assistance to Council services to enable them to comply with duties under the Data Protection Act 1998 and to assist them to deal with requests for the release of personal data.
- 4.8.33. Manage the Council's Customer Complaints procedures.
- 4.8.34. Act as the Proper Officer in terms of the Local Government (Access to Information) Act 1985 for the purposes of determining prior to a meeting whether documents should be made available to the public.
- 4.8.35. Carry out the functions of the Council under the Adults with Incapacity (Scotland) Act 2000 including those relating to Intervention Orders, access to funds and Guardianship Orders.

- 4.8.36. Prepare the schedule of polling districts and polling places for Dumfries and Galloway and to alter or amend polling places in the event of an approved place becoming unavailable or unviable, e.g. through fire or flood or some other circumstance.
- 4.8.37. Maintenance of the Register of Disclosure of Interests in terms of the Ethical Standards in Public Life etc (Scotland) Act 2000.

Audit

- 4.8.38. Undertake internal audit of Council systems, procedures and practices and to investigate complaints or issues raised with Internal Audit. To provide policies, procedures and guidance relating to audit, fraud, bribery and defalcation.
- 4.8.39. The taking of measures designed to deter fraud, investigation of cases of suspected fraud, the taking of action to recover assets and monies lost through fraud and any action required against those responsible.
- 4.8.40. The taking of measures designed to deter bribery, the investigation of cases of suspected bribery, and all actions to comply with the terms of the Bribery Act 2010.
- 4.8.41. In relation to Internal Audit work being carried out, the Chief Internal Auditor and any member of the Internal Audit section has the authority to:
- Enter at all reasonable times and without notice any premises or land of the Council, provided that where such premises or land are leased to a third party the terms of the lease are observed;
 - Have access to, and remove, all records (both paper and electronic), documents and correspondence within the possession or control of any officer of the Council, relating to any transactions of the Council;
 - Be provided with a separate log-in to any computer system within the Council and have full access to any system, network, personal computer or other device in the ownership of the Council;
 - Require and receive explanations concerning any matter under examination from any employee, including Chief Officers, and request such explanations from any elected member;
 - Require any employee of the Council to produce cash, stores or any other Council assets under their control.

Risk and Insurance

- 4.8.42. Ensure adequate risk management arrangements are in place throughout the Council.
- 4.8.43. Exercise functions relating to the identification, planning and mitigation of risks affecting the Council.
- 4.8.44. Ensure adequate business continuity arrangements, including identification of issues, business continuity planning, liaison with external bodies and putting in place arrangements to deal with business continuity issues.

Policy and Communications

- 4.8.45. Authorise the issue of all publicity and promotional material related to the Council.
- 4.8.46. Maintain good internal and external public relations.
- 4.8.47. Issue publicity to promote the Council's interests and to issue appropriate press releases, pamphlets or other forms of publicity on behalf of the Council.
- 4.8.48. Manage, maintain and make procedures relating to social media sites kept by the Council.
- 4.8.49. Deal with press enquiries and responses on behalf of the Council.
- 4.8.50. Authorise corporate branding material including logos etc to be used on behalf of the Council.
- 4.8.51. Undertake internal communications with Council employees and to provide policies to promote internal communication.
- 4.8.52. Produce marketing materials on behalf of the Council.
- 4.8.53. Lead corporate policy development.
- 4.8.54. Provide policy advice to Members, Officers and Partners.
- 4.8.55. Ensure the Council complies with its duties under the Equalities Act.

Transformation and Improvement

- 4.8.56. Support service reform and transformational change throughout the Council and its services in consultation with the relevant Director.
- 4.8.57. Manage and administer the Council's performance planning and monitoring arrangements, Strategic Priorities, and to make arrangements for Directorate business plans.
- 4.8.58. Co-ordinate the gathering and analysis of corporate data, performance or benchmarking information and any returns or other information relating to such performance information.
- 4.8.59. Support and coordinate Council entries for awards.
- 4.8.60. Support and coordinate Council corporate assessment for the European Foundation of Quality Management, Public Sector Improvement Framework or Recognised for Excellence.
- 4.8.61. Act as the Council's representative for functions of the Registrar General for Scotland as regards statistics and Census.

Director Communities

- 4.9. The Director Communities has overall responsibility for the following services:
 - **Civic and Local Services:** Community Safety; Community activities and civic events; Community assets, including arts and museums; Community councils; Open space / Burial Grounds / Grounds Maintenance; Local Resilience, Civil Contingencies, Emergency planning.

- **Customer Services:** Customer contact and service; Registrar; Libraries; Financial Inclusion / Anti-Poverty / Advice; Strategic Housing and Homelessness; Revenues and Benefits.
- **Community Engagement:** Community engagement and co-ordination ; Participation advice and policy; Community planning; Community asset transfer; Area Committee advice and support; Community development.

4.10. The Director is responsible for the leadership and co-ordination, planning and policy and the strategic and operational management of the services and without prejudice to the foregoing generality, such powers are detailed below.

- 4.10.1. To manage and administer the Council's Community Planning arrangements and to lead for all partner agencies.
- 4.10.2. To lead and undertake the Council's duties and responsibilities under the Community Empowerment Act.
- 4.10.3. To manage and administer the Council's Neighbourhood Planning arrangements.
- 4.10.4. Support for the development of corporate policy for the Council as it relates to Communities.
- 4.10.5. Gathering and analysis of demographic, performance and other data relating to Dumfries and Galloway, its neighbourhoods, and its partners.

4.11. The Director Communities and the Head of Civic and Local Services are authorised to:

Civic and Local Services

- 4.11.1. Manage the Council's Civil Contingencies service and to support the Council in planning and responding to emergencies.
- 4.11.2. Exercise functions relating to civil contingencies, including
 - Identification of risks requiring contingency arrangements;
 - Arrangements for civil contingency planning and testing;
 - Coordination with external bodies and maintaining arrangements to deal with contingencies including multi-agency cooperation and sharing of resilience related information;
 - Arrangements for warning and informing communities before, during and following a disruptive challenge;
 - Arrangements for the continuation of critical services during disruptive challenges and the promotion of business resilience to local private and third sector organisations;
 - Arrangements for site specific industrial hazards.
- 4.11.3. Acquire whether by purchase, donation, bequest or exchange any items for the museum and art collections of the Council up to a value of £10,000.
- 4.11.4. Authorise the acceptability of gifts to art galleries or museums on behalf of the Council and to acknowledge the acceptability of these gifts.

- 4.11.5. Authorise the loan to outside bodies of works of art or museum exhibits, in consultation with the Director Corporate Services in relation to insurance arrangements.
- 4.11.6. Grant permission to reproduce works of art and approve publications and to impose the appropriate charges for those artefacts and exhibits in the Council's ownership.
- 4.11.7. Supporting arts and culture within and relating to Dumfries and Galloway.
- 4.11.8. Support for community events and activities.
- 4.11.9. Support for major events within Dumfries and Galloway.
- 4.11.10. Make grants to community organisations and individuals in accordance with Council policy.
- 4.11.11. Provide support and assistance to Community Councils.
- 4.11.12. Provide burial and cremation services in terms of Burial Grounds (Scotland) Act 1855 and the Cremation Act 1902 and 1952. Take all necessary action with regard to the supervision and management of the Council's cemeteries and burial grounds including the sale of lairs etc.
- 4.11.13. Appoint officers for the enforcement of management rules for cemeteries, war memorials and public parks.
- 4.11.14. Provision, maintenance and emptying of litter bins in terms of the Litter Act 1983.
- 4.11.15. The regulation of the use of parks, open spaces, civic spaces and pedestrian precincts, cemeteries and other similar facilities.
- 4.11.16. The exercise of any functions of the Council required in terms of management rules approved by the Council under the Civic Government (Scotland) Act 1982.
- 4.11.17. Carry out any duties required in relation to antisocial behaviour in terms of the Antisocial Behaviour etc. (Scotland) Act 2004.
- 4.11.18. The exercise of enforcement powers in respect of legislation governing littering, fly tipping, fly posting, dog fouling, noise nuisance and other offences under the Anti-Social Behaviour (Scotland) Act 2004 and the parks management rules.
- 4.11.19. Appoint officers to issue fixed penalty notices for litter, dog fouling and noise nuisance offences within appropriate delegated authority.
- 4.11.20. Let or arrange for letting, hire, maintenance and use of playing fields in accordance with policies, practices and procedures and subject to the charges fixed from time to time by the Council.
- 4.11.21. Approve the Constitution, Standing Orders and other related documents of Community Councils in accordance with the Scheme of Establishment of Community Councils adopted by Dumfries and Galloway Council.
- 4.11.22. Deal with all applications or requests relating to civic receptions, opening ceremonies and any other ceremony, subject to consultation with the Depute Leader.

- 4.11.23. Deal with requests for the grant of civic hospitality etc to any official delegations, groups and visitors to Dumfries and Galloway and the presentation of suitable mementoes.
- 4.11.24. Support civic functions and festivals.
- 4.11.25. Manage the Council's arrangements when authorised by Committee for town twinning, including visits to or by other towns or areas with which the Council is twinned.

4.12. The Director Communities and the Head of Customer Services are authorised to:

Customer Services

- 4.12.1. Administration of the Council Tax Reduction (Scotland) Regulations 2012, Housing Benefit Regulations 2006 for social housing and private tenants and Scottish Welfare Fund.
- 4.12.2. In respect of Council Tax/Non Domestic Rates, to act as the Proper Officer in terms of the appropriate legislation for all administrative purposes including:
 - Arranging the preparation and issue of rates notices, the collection of rates, the receiving and settling of claims for reliefs and exemption from rates, the handling of objections to the amount of rates levied, and the abatement, remission or repayment of rates under the various rating provisions;
 - The preparation and issue of Council Tax Notices, the collection of the aforementioned tax, the handling of objections to the assessments and the exemption, discount, abatement, or remission of charges;
 - To enter into arrangements with Communities Scotland etc. in accordance with Schedule 2 of the Local Government Finance Act 1992, to administer Council Tax Reduction and discounts on behalf of the Council;
 - To enter into arrangements with neighbouring Councils and others concerning the collection of rates, or Council Tax on behalf of the Council and to make arrangements with each agent as to suitable collection points;
 - To 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, and/or other Council Tax, and the administration of any Council reduction or discount schemes etc;
 - To enter into arrangements with Scottish Water for the collection of water and waste water charges with Council Tax, and to negotiate appropriate terms and commission with the Water Authority in relation to the services rendered by the Council and its agencies.

- 4.12.3. Provide all services in respect of the duties of the Council in respect of the registration of births, deaths and marriages, citizenship ceremonies, Tell Us Once, civil ceremonies and to provide a registration family history searching facility.
- 4.12.4. Implement the Council's Customer Services Strategy, to develop and manage One Stop Shops and Customer Contact Centres and to manage emergency telephone helplines.
- 4.12.5. Ensure the provision of an adequate library and information service which meets the needs of residents.
- 4.12.6. Select, acquire and as necessary discard all books and other printed material, audio visual pictures, electronic images and other library material and all materials for museums, within the approved budget.
- 4.12.7. Undertake the Councils Statutory responsibilities in terms of the Prevention of Homelessness and Homelessness provision in line with the Housing (Scotland) Act 1987 as amended.
- 4.12.8. Authorised to exercise powers with respect to sub-standard housing under of the Housing (Scotland) Act 2006.
- 4.12.9. Exercise powers with respect to closing and demolition orders under sections 117 of the Housing (Scotland) Act 1987.
- 4.12.10. Exercise powers with respect to houses in multiple occupation under sections s44-153 of the Housing (Scotland) Act 2006.
- 4.12.11. Exercise powers with respect to compensation payments under the Housing (Scotland) Act 1987.
- 4.12.12. Agree, recharge and recover amounts payable by private owners as part of common repairs involving Council property.
- 4.12.13. Sign notices of proceedings and notices to quit to raise proceedings for repossession of dwelling housing.
- 4.12.14. Exercise powers with respect of regulation of private landlords as required under the Anti-Social Behaviour etc (Scotland) Act 2004.
- 4.12.15. Exercise powers under the Housing (Scotland) Act 2014.
- 4.12.16. Providing out of hours emergency services for homeless persons etc.
- 4.12.17. Making representations to the Scottish Government and other appropriate Government Bodies and Agencies, where appropriate, to maximise prospects of improving housing provision within the area.
- 4.12.18. Preparing the Councils Strategic Housing Investment Plan and other strategic documents and monitoring their implementation.
- 4.12.19. Assessment of general needs and special housing needs in liaison with other services and agencies.
- 4.12.20. Provide services to travelling persons including the management and maintenance of a site for travelling persons.
- 4.12.21. Managing and supporting unauthorised encampments of gypsies, travellers and others within Dumfries and Galloway.
- 4.12.22. Appoint, and authorise as appropriate, officers to ensure that enforcement and administration of statutory responsibilities.

- 4.12.23. Determine applications for repair and improvement grants in line with the provisions of the Housing (Scotland) Act 2001 and related legislation and Council policy and procedure.
- 4.12.24. Supporting the provision of good quality temporary and interim accommodation for vulnerable households including, women experiencing violence, homeless people and young people leaving care in line with the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 .
- 4.12.25. Provide Housing Options Advice and Information in line with Statutory Guidance.
- 4.12.26. Undertake the functions associated with debt counselling and money advice.

4.13. The Director Communities is authorised to:

Community Engagement

- 4.13.1. Ensure effective community engagement is at the heart of community planning.
- 4.13.2. Support the development of neighbourhood planning.
- 4.13.3. Ensure proper arrangements for community engagement, consultation, participation and community empowerment.
- 4.13.4. Develop and support the capacity of organisations, individuals and communities to become involved in, and contribute to Dumfries and Galloway, its neighbourhoods and communities.
- 4.13.5. Support the development of neighbourhood planning, the development of defined neighbourhood priorities and community action plans.
- 4.13.6. Support organisations and communities seeking to acquire Council assets in terms of the Council's Asset Transfer Policy.
- 4.13.7. Manage Participation Requests, Asset Transfer Requests, and Community Right to Buy Requests under the Community Empowerment (Scotland) Act 2015.

Director Economy, Environment and Infrastructure

4.14. The Director Economy, Environment and Infrastructure has overall responsibility for the following services:

- **Enterprising Services:** Building & Maintenance Services; Fleet Management & Vehicle Maintenance; Operational Service Delivery; Facilities Management; Catering Management; Logistic Services.
- **Planning and Regulatory Services:** Planning Services; Sustainable Development; Climate Change Strategy; Building Standards; Environmental Health; Trading Standards.
- **Economic Development:** Regional Economic Strategy; Business & Enterprise; European Programmes / Funding; Employability and Skills; Industrial Property Portfolio; Tourism.
- **Head of Infrastructure and Transportation:** Roads Service; Waste Service; Transport Strategy; Infrastructure Assets; Capital & Revenue Programmes; Engineering Design.

4.15. The Director is responsible for the leadership and co-ordination, planning and policy and the strategic and operational management of the services and without prejudice to the foregoing generality, such powers are detailed below.

4.16. The Director Economy, Environment and Infrastructure and the Head of Enterprising Services are authorised to:

Enterprising Services

- 4.16.1. Exercise the functions of the Council in respect of the collection, recycling and disposal of Household Waste in accordance with the Environmental Protection Act 1990 and other legislation.
- 4.16.2. Exercise the functions of the Council in respect of the collection, recycling and disposal of Commercial Waste in accordance with the Environmental Protection Act 1990 and other legislation.
- 4.16.3. Set the specification of type of waste receptacles.
- 4.16.4. Tender for external contracts.
- 4.16.5. Set charges for services.
- 4.16.6. Remove and dispose of abandoned vehicles and other refuse in terms of the Refuse Disposal (Amenity) Act 1978.
- 4.16.7. Sell or dispose of surplus vehicles and plant belonging to the Council.
- 4.16.8. Oversee:
 - The Transport Section including carrying out of repair to vehicles, plant, mechanical equipment as well as the operation of maintenance schedules;
 - The replacement of vehicles, plant and mechanical equipment within the Council's policy in consultation with the appropriate Chief Officers and to act as the Council's Transport Officer.

- 4.16.9. Sign agreement forms for rental, hire or leasing of items of equipment where the rental or hire charge does not exceed £150,000pa unless otherwise provided for.
- 4.16.10. Operate an MOT Testing Station and garage for the repair and testing of vehicles owned or licensed by the Council.
- 4.16.11. Fulfil the requirements of the Transport Act 1968 and the Goods Vehicles (Licensing of Operators) Act 1995 in relation to any Operator's Licence including:
- Section 8 of the Goods Vehicles (Licensing of Operators) Act 1995 to apply for and publicise notice of the application for an operator's licence;
 - Section 17 of the Goods Vehicles (Licensing of Operators) Act 1995 to apply for variations to an operator's licence;
 - Section 95 of the Transport Act 1968 and subordinate legislation made thereunder to ensure that requirements relating to drivers' hours are complied with;
 - Section 98 of the 1968 Act and subordinate legislation made thereunder to ensure that requirements relating to the keeping of written records for drivers' hours are complied with.
- 4.16.12. Take such steps as are required to comply Road Traffic, Transport and Health and Safety requirements relating to services, transport and works provided by the Council, including without prejudice to the foregoing generality the provisions of the Road Traffic and Transport Acts, the Smoking, Health & Social Care (Scotland) Act 2005, Section 22 (c) of the Civic Government (Scotland) Act 1982, the Road Vehicles (Constructions and Use) Regulations 1996 and BS5423, the Compulsory Seat Belt Regulations, the Control of Vibration at Work Regulations 2005 - for external hire equipment/plant and the Provision and Use of Work Equipment Regulations 1998 (Purver) - for external hire equipment/plant.
- 4.17. The Director Economy, Environment and Infrastructure and the Head of Planning and Regulatory Services are authorised to:

Planning

Part 1: Local Developments

4.18. In accordance with Section 43(A) of the Town & Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, Dumfries & Galloway Council as planning authority hereby delegates the power to determine any application for planning permission for a development within the category of local developments as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 or any application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within that category, to the appointed officers

nominated by the Director Economy, Environment and Infrastructure and the Head of Planning & Building Standards, subject to the condition that such delegated powers shall not be exercised in the circumstances set out below in para 2 (i) to (v).

4.18.1. Exceptions

- (i) applications made by the planning authority;
- (ii) applications made by or on behalf of a) any Elected Member of the planning authority or b) any officer directly involved in the statutory planning process or c) any immediate relative or partner of either a) or b)¹;
- (iii) applications which are subject to 6 or more separate, individual and timeously-received objections² on material planning grounds;
- (iv) applications which are the subject of objections from any statutory consultee³ and which officers are minded to approve; or
- (v) applications for developments which are significant departures from the development plan⁴ and which officers are minded to approve.

Part 2 : National and Major Developments and all other Planning

Determinations

4.18.2. In accordance with Section 56 of the Local Government (Scotland) Act 1973, Dumfries & Galloway Council as planning authority hereby delegates to the Director Economy, Environment and Infrastructure Services, Head of Planning & Building Standards, and their appointed officers, the power to take all actions and decisions, make all determinations and Orders and serve, vary or withdraw all notices under Planning, Listed Building and Conservation Area, Hazardous Substances and Advertisement legislation on behalf of the Council, subject to the condition that such delegated powers shall not be exercised in the circumstances set out below in paras 4(i) to 4(viii).

4.18.3. Exceptions

Part 2 of this Scheme does not apply to applications for local developments, as defined in Regulation 2(2) of the Town & Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, which are the subject of Part 1 of this Scheme of Delegation. In addition, it does not apply to:

- (i) applications made by the planning authority;
- (ii) applications made by or on behalf of a) any Elected Member of the planning authority or b) any officer directly involved in the statutory planning process or c) any immediate relative or partner of either a) or b)¹;

- (iii) applications relating to national or major developments as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
- (iv) applications which are subject to 6 or more separate, individual and timeously-received objections² on material planning grounds; or
- (v) applications which are the subject of objections from any statutory consultee³ and which officers are minded to approve;
- (vi) applications for developments which are significant departures from the development plan⁴ and which officers are minded to approve.

Furthermore, it does not apply to:

- (vii) responses to notifications and consultations on national or major development which does not require the permission of the Council as planning authority (e.g. S36 applications for wind turbines);
- (viii) taking direct action to remedy breaches of planning control subsequent to the service of an Enforcement Notice, Stop Notice or other Notice served under Planning, Listed Building and Conservation Area or Advertisement legislation.

Applicable to Parts 1 and 2 above:

- 4.18.4. For the avoidance of doubt, appointed officers shall not be under any obligation to exercise their delegated powers, and shall retain the right to refer any application to Committee for determination, if they consider it appropriate or expedient to do so.
- 4.18.5. If, within 21 days of the publication of the weekly list of new applications, or before the expiry date of any statutory public notification period, whichever is later, an appointed officer receives a request on material planning grounds from any Elected Member for any application within Dumfries & Galloway to be referred to Committee for a decision, the appointed officer shall refer that application to Committee. An Elected Member may revoke such a request if this is notified to the appointed officer prior to the publication of the agenda and papers for the meeting where the application was due to be considered. Provided there is no other reason why the application must be considered by the Planning Applications Committee, it will then be deemed to have been withdrawn from the agenda for that meeting and the decision will be made by the appointed officer.
- 4.18.6. Notwithstanding the above exceptions to Parts 1 and 2 of this Scheme of Delegation, appointed officers are hereby delegated to refuse any application where insufficient information has been submitted to enable a properly informed determination to be made.

Footnotes:

¹ “Immediate relative” in relation to an Elected Member of the planning authority, or an officer involved in the statutory planning process, means a person who is, at the time of determination of the application, in any of the following relationships to the Elected Member or officer -

(a) a spouse or civil partner;

(b) a person, not being the spouse or civil partner, living with the Elected Member or officer as husband or wife or in a relationship which has the characteristics of the relationship between civil partners;

(c) a parent or child;

(d) a person not falling within paragraph (c) above who is accepted by the Elected Member or officer as a child of his family or as his parent;

(e) a brother or sister, or a person who was brought up in the same household with the Elected Member or the officer, and who was accepted as a child of the family in which the Elected Member or the officer was a child;

(f) a grandparent or grandchild;

and includes any person who is the spouse or civil partner of, or a person living as husband or wife or in a relationship which has the characteristics of the relationship between civil partners with, a person falling in (c) to (f) above.

² Objections – ‘Timeously received’ means an objection received within 21 days from the date of service of the neighbour notification, or within the statutory response period of any advertisement of the application in question, whichever is the later. Late objections received outwith the applicable period will not be accepted. For the avoidance of doubt, a petition is counted as an individual representation and not as a representation from each signatory.

³ Statutory consultee - a ‘statutory consultee’ is one defined in Schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, namely the Scottish Environment Protection Agency, Scottish Natural Heritage, the Health and Safety Executive, Scottish Ministers (Trunk Roads, Historic Scotland, and Marine Fish Farming), Community Councils, the Coal Authority, adjoining planning authorities, Network Rail, Theatre Trust, Scottish Water and District Salmon Fishery Boards.

⁴ Significant Departure from Development Plan - It is a matter for the appointed officer to judge the significance of a departure. Judgement is based on the significance of the departure from the main aims, objectives and policies of the development plan, not on the size or scale of the development.

⁵ Should there be any change in national legislation for any of the categories above which are also covered by statute (namely those under paragraphs 2 (i - ii) & 4 (i - ii) above), any such change shall be deemed to be simultaneously reflected in the Council’s Scheme of Delegation to Officers for Planning without the need to further Council approval.

Building Standards

4.18.7. Carry out all functions of the Council in terms of the following legislation:

- The Building (Scotland) Act 2003;
- To carry out the function of the Council (including maintaining registers, inspecting and enforcing) in terms of the Reservoirs Act 1975.

4.18.8. Exercise the functions of the Council in relation to dangerous and defective buildings, unauthorised works and requiring existing buildings to comply with Building Standards Regulations.

4.18.9. Exercise the functions of the Council in relation to the safety of temporary platforms and also the licensing of Houses in Multiple Occupation all in terms of the Civic Government (Scotland) Act 1982.

4.18.10. Undertake functions relating to the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987, the functions of the

Council in relation to safety of covered spectator viewing facilities at or within sports ground in terms of the Fire Safety and Safety of Places of Sport Act 1987.

- 4.18.11. Exercise the functions as Building Standards Authority in terms of the Licensing (Scotland) Act 2005.
- 4.18.12. Grant or refuse applications under the Building (Scotland) Act 2003, or accept or reject under the Building (Scotland) Act 2003 for certificates of completion, subject to a right of appeal to the Sheriff Court.
- 4.18.13. Grant extensions to the life of building warrants.
- 4.18.14. Evacuate buildings and carry out works in case of immediate danger where necessary.
- 4.18.15. Authorised to issue letters of comfort/intent in relation to unauthorised building work.

Trading Standards

- 4.18.16. Undertake the functions of the Council relating to Animal Health and Welfare, Consumer Protection and Weights and Measures.
- 4.18.17. Response to consultations.
- 4.18.18. Grant, but not refuse, applications, renewals or transfers of licences, registrations, approvals and other permissions sought (including variation thereof) lodged and charge fees payable under the following statutes:
 - Animal Boarding Establishments Act 1963;
 - Breeding of Dogs Act 1973;
 - Dangerous Wild Animals Act 1976;
 - Guard Dogs Act 1975;
 - Licensing of Animal Dealers (Young Cats & Young Dogs) (Scotland) Regs 2009;
 - Performing Animals (Regulation) Act 1925;
 - Pet Animals Act 1951;
 - Riding Establishments Acts 1964 & 1970;
 - Explosives Regulations 2014;
 - Fireworks Regulations 2004;
 - Manufacture and Storage of Explosives Regulations 2005;
 - Petroleum (Regulation) Acts 1928 & 1936;
 - Petroleum (Consolidation) Regulations 2014;
 - Poisons Act 1972.

Animal Health and Welfare and Agriculture

- 4.18.19. Carry out the functions of the Council, as Local Authority, Enforcement Authority or otherwise, and to exercise the enforcement powers referred to in the statutes listed, and any other Regulations or Orders made thereunder where they fall within the general remit of the Trading Standards service and to submit reports to the Procurator Fiscal.
 - Agriculture Act 1970;

- Agriculture (Miscellaneous Provisions) Act 1968;
- Animal Boarding Establishments Act 1963;
- Animal Health Act 1981;
- Animal Health & Welfare (Scotland) Act 2006;
- Breeding of Dogs Act 1973;
- Dangerous Wild Animals Act 1976;
- Food Safety Act 1990;
- Guard Dogs Act 1975;
- Health and Safety at Work etc Act 1974 S.20(2)(c)(i);
- Licensing of Animal Dealers (Young Cats & Young Dogs) (Scotland) Regs 2009;
- Performing Animals (Regulation) Act 1925;
- Pet Animals Act 1951;
- Riding Establishments Acts 1964 & 1970;
- The Welfare of Farmed Animals (Scotland) Regulations 2010;
- Trade in Animals and Related Products (Scotland) Regulations 2012.

Regulations and Orders made under the European Communities Act 1972, including:

- The Animal By-Products (Enforcement) (Scotland) Regulations 2013;
- The Cattle Identification (Scotland) Regulations 2007;
- Veterinary Medicines Regulations 2013;
- Feed (Hygiene and Enforcement) (Scotland) Regulations 2005.

Consumer Protection

4.18.20. Carry out the functions of the Council, as Local Weights and Measures Authority, Local (consumer Safety) Authority, Enforcement Authority or otherwise, and to exercise the enforcement powers referred to in the statutes listed, and any other Regulations or Orders made thereunder where they fall within the general remit of the Trading Standards service and to submit reports to the Procurator Fiscal:

- Antisocial Behaviour etc (Scotland) Act 2004 s122-125;
- Children and Young Persons (Protection from Tobacco) Act 1991;
- Civic Government (Scotland) Act 1982 s94, s99;
- Clean Air Act 1993 s30;
- Climate Change (Scotland) Act 2009;
- Companies Act 2006 Parts 5 & 41;
- Consumer Credit Act 1974;
- Consumer Protection Act 1987;
- Consumer Rights Act 2015;
- Copyright Designs and Patents Act 1988;
- Development of Tourism Act 1969;
- Education Reform Act 1988 s214;
- Energy Conservation Act 1981;

- Enterprise Act 2002;
- Environmental Protection Act 1990;
- Estate Agents Act 1979;
- Explosives Acts 1875 and 1923;
- Fair Trading Act 1973;
- Fireworks Act 2003;
- Food and Environment Protection Act 1985;
- Hallmarking Act 1973;
- Health and Safety at Work etc Act 1974 S.20,21,22,25;
- Health and Safety at Work etc Act 1974 S.20(2)(c)(i);
- Housing (Scotland) Act 2006 (Part 3);
- Medicines Act 1968;
- Motor Cycles Noise Act 1987;
- Olympic Symbol (Protection) Act 1975;
- Petroleum (Regulation) Acts 1928 and 1936;
- Poisons Act 1972;
- Prices Acts 1974 and 1975;
- Registered Designs Act 1949;
- Road Traffic Act 1988 (s.17);
- Smoking Health and Social Care (Scotland) Act 2005;
- Tobacco Advertising and Promotion Act 2002;
- Tobacco and Primary Medical Services (Scotland) Act 2010;
- Trade Descriptions Act 1968;
- Trade Marks Act 1994;
- Video Recordings Act 1984.

Regulations and Orders made under the European Communities Act 1972, including:

- Business Protection from Misleading Marketing Regulations 2008;
- Construction Products Regulations 2013;
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013;
- Cosmetic Product Enforcement Regulations 2014;
- Consumer Protection (Distance Selling) Regulations 2000;
- Consumer Protection from Unfair Trading Regulations 2008;
- Electromagnetic Compatibility Regulations 2006;
- Explosives Regulations 2014;
- General Product Safety Regulations 2005;
- Packaging (Essential Requirements) Regulations 2015;
- Petroleum (Consolidation) Regulations 2014;
- REACH Enforcement Regulations 2008;
- Textile Products (Labelling and Fibre Composition) Regulations 2012;
- Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010.

Weights and Measures

4.18.21. Carry out the responsibilities, duties and powers of Inspector of Weights and Measures, as defined in the Weights & Measures Act 1985 and to submit reports to the Procurator Fiscal:

- Weights and Measures Acts 1976 and 1985;
- Merchant Shipping Act 1995

Regulations and Orders made under the European Communities Act 1972 which make provision for weights and measures, including:

- The Non-automatic Weighing Instruments Regulations 2000 (authorised by the Chief Inspector of Weights and Measures);
- Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006;
- Measuring Instruments (Automatic Rail weighbridges) Regulations 2006;
- Measuring Instruments (Automatic Catchweighers) Regulations 2006;
- Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006;
- Measuring Instruments (Beltweighers) Regulations 2006;
- Measuring Instruments (Capacity Serving Measures) Regulations 2006;
- Measuring Instruments (Material Measures of Length) Regulations 2006;
- Measuring Instruments (Cold Water Meters) Regulations 2006;
- Measuring Instruments (Liquid Fuel Delivered from Road Tankers) Regulations 2006;
- Measuring Instruments (Non-Prescribed Instruments) Regulations 2006.

4.18.22. Carry out the function of the Chief Inspector of Weights and Measures as defined in the Weights & Measures Act 1985.

4.18.23. Charge fees payable under the Weights and Measures Act 1985, in accordance with the Council's Fees Schedule.

Environmental Health

4.18.24. Exercise the functions of the Council as specified in the Acts detailed below (including any modifications, re-enactments or amendments thereof) and all related Regulations and Orders made thereunder, for such matters that relate to an Environmental Health function:

- Animal Health Act 1981;
- Animal Health and Welfare (Scotland) Act 2006;
- Anti-Social behaviour etc (Scotland) Act 2004;
- Caravan Sites and Control of Development Act 1960;
- Cinemas Act 1985;

- Civic Government (Scotland) Act 1982;
- Clean air Act 1993;
- Control of Dogs (Scotland) Act 2010;
- Control of Pollution Act 1974;
- Deer (Scotland) Act 1996;
- Dangerous Dogs Act 1991;
- Dogs Act 1906;
- Environment Act 1995;
- Environmental Protection Act 1990;
- European Communities Act 1972;
- Fire Safety and Safety of Places of Sports Act 1987;
- Food Safety Act 1990;
- Food (Scotland) Act 2015;
- Health and Safety at Work etc Act 1974;
- Housing (Scotland) Act 2006;
- Local Government in Scotland Act 2003;
- Medicines Act 1968;
- Mines and Quarries Act 1954;
- Noise and Statutory Nuisance Act 1993;
- Pesticides Act 1998;
- Prevention of Damage by Pests Act 1949;
- Private Water Supplies (Scotland) Act 2006;
- Public Health (Scotland) Act 2008;
- Reservoirs Acts 1975 and 2011;
- Sewerage (Scotland) Act 1968;
- Slaughter of Animals (Scotland) Act 1980;
- Slaughter of Poultry Act 1967;
- Smoking, Health & Social Care (Scotland) Act 2005 (in relation to Smoking);
- Water (Scotland) Act 1980;
- Zoo Licensing Act 1981.

4.19. The Director Economy, Environment and Infrastructure and the Head of Economic Development are authorised to:

Economic Development

- 4.19.1. Approve the award of economic development and regeneration loans and grants to a maximum of £20,000.
- 4.19.2. Manage the Economic Development Services of the Council, including entering into contracts with third party providers and potential employers and to offer employment related advice and assistance.
- 4.19.3. Manage the Council’s programme for recruitment of Modern Apprentices and Skillseekers, whether by the Council or other employers.

- 4.19.4. Construct and maintain paths, to produce a Core Paths Plan and other duties in terms of the Land Reform (Scotland) Act 2003.
- 4.19.5. Assert and protect rights of way in terms of the Countryside (Scotland) Act 1967 and access rights in terms of the Land Reform (Scotland) Act 2003.

4.20. The Director Economy, Environment and Infrastructure and the Head of Infrastructure and Transportation are authorised to:

Infrastructure and Transportation

- 4.20.1. Exercise the functions of the Council in respect of the collection, recycling and disposal of Household Waste in accordance with the Environmental Protection Act 1990 and other legislation.
- 4.20.2. Exercise the functions of the Council in respect of the collection, recycling and disposal of Commercial Waste in accordance with the Environmental Protection Act 1990 and other legislation.
- 4.20.3. Specification of type of waste receptacles.
- 4.20.4. Provide and manage school transport in terms of Section 32 of the Local Government etc. (Scotland) Act 1994, the Education (Scotland) Act 1996, the Standards in Schools etc. (Scotland) Act 2000.
- 4.20.5. Exercise the strategic planning of functions detailed in the following legislation, any subordinate legislation made thereunder and any subsequent or similar legislation or replacing or expanding legislation, including service of any notices required thereunder:
 - Coast Protection Act 1949;
 - Roads (Scotland) Act 1984;
 - Roads Traffic Regulation Act 1984;
 - Disabled Persons Parking (Scotland) 2009;
 - Flood Risk Management (Scotland) Act 2009;
 - Transport (Scotland) Act 2005;
 - New Roads and Street Works Act 1991;
 - Security for Private Road Works (Scotland) Regulations 1985;
 - Refuse Disposal (Amenity) Act 1978;
 - Control of Pollution (Amendment) Act 1989;
 - Environmental Protection Act 1990;
 - Environment Act 1995;
 - Waste Minimisation Act 1998;
 - Pollution Prevention and Control Act 1999;
 - Waste and Emissions Trading Act 2003;
 - Waste (Scotland) Regulations 2012;
 - Harbours Act 1964;
 - Port Marine Safety Code 2012;
 - Transport Act 1985;
 - Road Traffic Act 1988;
 - Road Traffic Reduction Act 1997;
 - Transport (Scotland) Act 2001;
 - Education Scotland Act 1980;

- Local Government in Scotland Act 2003.
- 4.20.6. In terms of the Health and Safety at Work Act 1974 to carry out all duties set out in the statements of responsibilities for (health, safety and welfare in places of work) and the general statement of policy and health and safety at work issued in 1985 as amended.
- 4.20.7. Where appropriate to enter objections on behalf of the Council to applications for goods of vehicles operator's licences under section 12 of Goods Vehicles (Licensing of Operators) Act 1995
- 4.20.8. Respond to consultation for applications for planning development control where these relate to roads and flooding issues.
- 4.20.9. Carry out the functions of the Council under the Transport (Scotland) Act 2005 and associated legislation and amendments, including enforcement and imposition of penalties as prescribed in the Act and the relevant Code of Practice.
- 4.20.10. Remove and dispose of abandoned vehicles and recover expenses for their removal, to remove and dispose of refuse other than a motor vehicle and to enter land at any reasonable time in terms of the Refuse Disposal (Amenity) Act 1978.
- 4.20.11. Exercise the operational management of functions detailed in the following legislation, any subordinate legislation made thereunder and any subsequent or similar legislation or replacing or expanding legislation, including service of any notices required thereunder:-
- Coast Protection Act 1949;
 - Roads (Scotland) Act 1984;
 - Roads Traffic Regulation Act 1984;
 - Disabled Persons Parking (Scotland) 2009;
 - Flood Risk Management (Scotland) Act 2009;
 - Transport (Scotland) Act 2005;
 - New Roads and Street Works Act 1991;
 - Security for Private Road Works (Scotland) Regulations 1985;
 - Refuse Disposal (Amenity) Act 1978;
 - Control of Pollution (Amendment) Act 1989;
 - Environmental Protection Act 1990;
 - Environment Act 1995;
 - Waste Minimisation Act 1998;
 - Pollution Prevention and Control Act 1999;
 - Waste and Emissions Trading Act 2003;
 - Waste (Scotland) Regulations 2012;
 - Harbours Act 1964;
 - Port Marine Safety Code 2012;
 - Transport Act 1985;
 - Road Traffic Act 1988;
 - Road Traffic Reduction Act 1997;
 - Transport (Scotland) Act 2001;

- Education Scotland Act 1980;
 - Local Government in Scotland Act 2003.
- 4.20.12. After consultation with the Chief Constable and the Chief Executive to make, revoke or vary orders and schemes under the following legislation, providing no objections are received: -
- Road Traffic Regulation Act 1984;
 - Section 68, 69, 70, 71 of the Roads (Scotland) Act 1984.
- 4.20.13. Carry out all functions of the Council in terms of Section 85 and part of Section 97 relating to street numbering in terms of Civic Government (Scotland) Act 1982 (street naming determined by Committee).
- 4.20.14. Grant wayleaves in respect of public utilities.
- 4.20.15. Carry out function of the Road Safety Officer in conjunction with the Chief Constable.
- 4.20.16. Deal with all requests for information in connection with grant applications made under section 8 of the Railways Act 1974 (Grants to assist in the provision of facilities for freight haulage by rail).
- 4.20.17. Carry out the functions and duties under the Harbours Act 1964 and to promote Harbour Orders.
- 4.20.18. Exercise functions of the Council under section 12 of the Roads (Scotland) Act 1984 in relation to the stopping up or diversion of roads, crossing or entering routes of proposed new roads.
- 4.20.19. After consultation with the Chief Executive to agree terms for bridge agreements with the relevant Railway body and terms of discharge of the Council's liability for annual maintenance and renewal charges in that connection.
- 4.20.20. 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 subject to the necessary consents being obtained in respect of Planning Approval.
- 4.20.21. Proceed with the repairs and maintenance to the public realm.
- 4.20.22. Make arrangements for the management of car parks etc. including granting their use or part thereof to other persons and bodies, and the imposition or waiving of charges for such use.
- 4.20.23. Carry out the functions of the Council in terms of Section 4, 5, 8, 12 and 25 of the Coast Protection Act 1949.
- 4.20.24. In terms of the Health and Safety at Work Act 1974 and the Electricity at Work Regulations 1989 to carry out all duties set out in the statements of responsibilities for (health, safety and welfare in places of work) and the general statement of policy and health and safety at work issued in 1985 as amended.
- 4.20.25. Respond to consultation for applications for planning development control where these relate to roads and flooding issues.

- 4.20.26. Make application for extensions to the operator's licence to the vehicle licensing authority or any other decisions necessary to ensure the legal operation of the Council's fleet.
- 4.20.27. Carry out the functions of the Council under the Transport (Scotland) Act 2005 and associated legislation and amendments, including enforcement and imposition of penalties as prescribed in the Act and the relevant Code of Practice.

Director Children, Young People and Lifelong Learning

4.21. The Director Children, Young People and Lifelong Learning has overall responsibility for the following services:

- **Education:** Early years/Childcare; Primary Schools; Secondary Schools; Education Policy; Statutory responsibilities; Strategy and Continuous Improvement.
- **Social Work:** Children's and Family's social care; Criminal justice services; Integration/Adult services; Public Protection; Strategy and continuous improvement.
- **Resources and Support Services:** Directorate finance; Business change/support; Risk management; Management information; Assets/I.T; Health and safety.
- **Lifelong Learning and Wellbeing:** Training and Development Strategy; Workforce Development; Adult Learning; Well being; Youth Services; Young People Leisure and Sport.

4.22. The Director is responsible for the leadership and co-ordination, planning and policy and the strategic and operational management of the services and without prejudice to the foregoing generality, such powers are detailed below.

4.23. The Director Children, Young People and Lifelong Learning and the Head of Lifelong Learning and Wellbeing are authorised to:

Lifelong Learning and Wellbeing

- 4.23.1. Undertake functions of the Council relating to health improvement of Council employees.
- 4.23.2. Provide training to deliver or arrange for the delivery of training or training facilities to Council employees, Councillors or others.
- 4.23.3. Ensure the design and delivery of community learning and development.

4.24. The Director Children, Young People and Lifelong Learning and the Head Education are authorised to:

Education

- 4.24.1. Exercise the functions and powers of the Council in terms of the following legislation and any subsequent or similar legislation or replacing or expanding legislation: -
 - Education (Scotland) Act 1980 as amended;
 - The Self-Governing Schools (Scotland) Act 1989;
 - Education and Training (Scotland) Act 2000;
 - Standards in Scotland's Schools etc. Act 2000;
 - Regulation of Care (Scotland) Act 2001;
 - Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002;

- School Education (Amendment) (Scotland) Act 2002;
 - Education (Additional Support for Learning) (Scotland) Act 2004;
 - School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004;
 - Scottish Schools (Parental Involvement) Act 2006;
 - Schools (Consultation) (Scotland) Act 2010.
- 4.24.2. Manage the provision of education in accordance with approved policy.
- 4.24.3. Accept and administer any new trusts or small endowments which may be offered to the Council for schools in their area.
- 4.24.4. Transfer teachers within the policy established by the Education Authority and, where appropriate, pay transfer expenses.
- 4.24.5. Exercise the discretionary powers available in implementation of conditions of service in relation to teachers in the employment of the Authority.
- 4.24.6. Carry out the administration, assessment and award of education maintenance allowances.
- 4.24.7. Make discretionary grants to pupils to enable them to attend courses and conferences and to undertake additional visits and excursions at home and abroad within the approved estimates and policies of the Council.
- 4.24.8. Make grants of up to £1000 to voluntary organisations, schools and other organisations which make provision for children of school age, pre-5s or out-of-school care.
- 4.24.9. Approve support for any type of educational course and to make grants from any bursary or other financial scheme operated by the Council.
- 4.24.10. Make grants to staff and/or pupils in connection with courses, conferences, educational visits and excursions.
- 4.24.11. Make grants to pupils who are selected to join national music ensembles in respect of fees and attendance at courses related to their membership of these bodies.
- 4.24.12. Exercise the powers available to the Council as Education Authority in relation to the exclusion of pupils from schools in line with policy.
- 4.24.13. Determine the dates of local school holidays within the Council after consultation.
- 4.24.14. Determine the dates of the 5 teachers' in-service days after due consultation with all relevant parties.
- 4.24.15. Receive and determine application for dispersement of funds in any endowments, subject to the terms of the endowment.
- 4.24.16. Accept and administer any new trusts or small endowments which may be offered to the Council for schools in its area.
- 4.24.17. Issue licenses in terms of the Children (Performances and Activities) (Scotland) Regulations 2014.
- 4.24.18. Agree or refuse requests for access to an amendment of records in terms of the Pupils Education Records (Scotland) Regulations 2003 and the

Further Education Student Records (Scotland) Regulations 1990 and to review any such decisions.

4.24.19. Determine and issue school clothing grants.

4.25. The Director Children, Young People and Lifelong Learning and the Head Social Work are authorised to:

Social Work

4.26. Exercise the powers and carry out the functions under the following legislation:

National Assistance Act 1948

- Section 45 (The recovery of expenditure incurred under Part III of that Act where a person has fraudulently or otherwise misrepresented or failed to disclose a material fact);
- Section 48 (The protection of property of a person admitted to hospital or accommodation provided under Part III of that Act).

Matrimonial proceedings (Children) Act 1958

- Section 11 (Reports as to arrangements for future care and upbringing of children).

The Disabled Persons (Employment) Act 1958

- Section 3 (The making of arrangements for the provision of facilities for the purposes set out in section 15(1) of the Disabled Persons (Employment) Act 1944).

The Social Work (Scotland) Act 1968

- Section 1 (The enforcement and execution of the provisions of the Social Work (Scotland) Act 1968);
- Section 4 (The making of arrangements with voluntary organisations or other persons for assistance with the performance of certain functions);
- Section 5 (Local Authorities to perform their functions under the Act under the guidance of the Secretary of State);
- Section 6B (Local Authority inquiries into matters affecting children);
- Section 8 (The conducting of, or assisting with research in connection with functions in relation to social welfare and the provision of financial assistance in connection with such research);
- Section 10 (The making of contributions by way of grant or loan to voluntary organisations whose sole or primary object is to promote social welfare and making available for use by a voluntary organisation premises, furniture, equipment, vehicles and the services of staff);
- Section 12 (The promotion of social welfare and the provision of advice and assistance) except in so far as it is exercisable in relation to the provision of housing support services;

- Section 12A (The assessment of needs for community care services, the making of decisions as to the provision of such services and the provision of emergency community care services);
- Section 12AZA (The taking of steps to identify persons who are able to assist a supported person with assessments under section 12A and to involve such persons in such assessments);
- Section 12AA (The compliance with a request for an assessment of a carer's ability to provide or to continue to provide care);
- Section 12AB (The notification of carers as to their entitlement to make a request for an assessment under section 12AA);
- Section 13 (The assistance of persons in need with the disposal of their work);
- Section 13ZA (The taking of steps to help an incapable adult to benefit from community care services);
- Section 13A (The provision, or making arrangements for the provision, of residential accommodation with nursing);
- Section 13B (The making of arrangements for the care or aftercare of persons suffering from illness);
- Section 14 (The provision or arranging the provision of domiciliary services and laundry services);
- Section 27 (Supervision and care of persons put on probation or released from prisons etc.);
- Section 27ZA (Grants in respect of community service facilities);
- Section 28 (The burial or cremation of deceased persons who were in the care of the Local Authority immediately before their death and the recovery of the costs of such burial or cremation) so far as it is exercisable in relation to persons cared for or assisted under another delegated function;
- Section 29 (The making of payments to parents or relatives of, or persons connected with, persons in the care of the Local Authority or receiving assistance from the Local Authority, in connection with expenses incurred in visiting the person or attending the funeral of the person);
- Section 59 (The provision of residential and other establishments);
- Section 78A (Recovery of contributions);
- Section 80 (Enforcement of duty to make contributions);
- Section 81 (Provisions as to decrees for ailment);
- Section 83 (Variation of trusts);
- Section 86 (The recovery of expenditure incurred in the provisions of accommodation, services, facilities or payments for persons ordinarily resident in the area of another Local Authority from the other Local Authority).

The Children Act 1975

- Section 34 (Access and maintenance);
- Section 39 (Reports by local authorities and probation officers);
- Section 40 (Notice of application to be given to Local Authority);
- Section 50 (Payments towards maintenance of children).

The Local Government and Planning (Scotland) Act 1982

- Section 24(1) (The provision, or making arrangements for the provision, of gardening assistance and the recovery of charges for such assistance).

Health and Social Services and Social Security Adjudications Act 1983

- Section 21 (The recovery of amounts in respect of accommodation provided under the Social Work (Scotland) Act 1968 or Section 25 of the Mental Health (Care and Treatment)(Scotland) Act 2003);
- Section 22 (The creation of a charge over land in England or Wales where a person having a beneficial interest in such land has failed to pay a sum due to be paid in respect of accommodation provided under the Social Work (Scotland) Act 1968 or Section 25 of the Mental Health (Care and Treatment)(Scotland) Act 2003);
- Section 23 (The creation of a charging order over an interest in land in Scotland where a person having such an interest has failed to pay a sum due to be paid in respect of accommodation provided under the Social Work (Scotland) Act 1968 or Section 25 of the Mental Health (Care and Treatment)(Scotland) Act 2003).

Foster Children (Scotland) Act 1984

- Section 3 (Duty of Local Authority to ensure well-being of and to visit foster children);
- Section 5 (Notification to Local Authority by persons maintaining or proposing to maintain foster children);
- Section 6 (Notification to Local Authority by persons ceasing to maintain foster children);
- Section 8 (Power of local authorities to inspect foster premises);
- Section 9 (Power of local authorities to impose requirements as to the keeping of foster children);
- Section 10 (Power of local authorities to prohibit the keeping of foster children).

Disabled Persons (Services, Consultation and Representation) Act 1986

- Section 2 (The making of arrangements in relation to an authorised representative of a disabled person and the provision of information in respect of an authorised representative);
- Section 3 (The provision of an opportunity for a disabled person or an authorised representative of a disabled person to make representations

as to the needs of that person on any occasion where it falls to a Local Authority to assess the needs of the disabled person for the provision of statutory services by the authority, the provision of a statement specifying the needs of the person and any services which the authority proposes to provide, and related duties);

- Section 7 (The making of arrangements for the assessments of the needs of a person who is discharged from hospital);
- Section 8 (Having regard, in deciding whether a disabled person's needs call for the provision of services, to the ability of a person providing unpaid care to the disabled person to continue to provide such care).

The Children (Scotland) Act 1995

- Section 17 (Duty of Local Authority to children looked after by them).
- Sections 19-27 (Provision of relevant services by Local Authority for or in respect of children in their area);
- Sections 29-32 (Advice and assistance for young person's formerly looked after by local authorities; duty of Local Authority to review case of a looked after child; removal by Local Authority of a child from a residential establishment);
- Section 36 (Welfare of certain children in hospitals and nursing homes etc.);
- Section 38 (Short term refuges for children at risk of harm);
- Section 76 (Exclusion orders).

Criminal Procedure (Scotland) Act 1995

- Section 51 (Remand and committal of children and young persons);
- Section 203 (Where a person specified in Section 27(1)(b)(i) to (vi) of the Social Work (Scotland) Act 1968 commits an offence the court shall not to dispose of the case without first obtaining a Report from the Local Authority in whose area the person resides);
- Section 234B (Drug treatment and testing order);
- Section 245A (Restriction of liberty Orders).

The Adults with Incapacity (Scotland) Act 2000

- Section 10 (The general functions of a Local Authority under the Adults with Incapacity (Scotland) Act 2000);
- Section 12 (The taking of steps in consequence of an investigation carried out under section 10(1)(c) or (d));
- Sections 37, 39-45 (The management of the affairs, including the finances, of a resident of an establishment managed by a Local Authority).

The Housing (Scotland) Act 2001

- Section 92 (assistance for housing purposes) only in so far as it relates to an aid or adaptation.

The Community Care and Health (Scotland) Act 2002

- Section 4 (The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 in relation to the provision, or securing the provision, of relevant accommodation);
- Section 5 (The making of arrangements for the provision of residential accommodation outside Scotland);
- Section 6 (Entering into deferred payment agreements for the costs of residential accommodation);
- Section 14 (The making of payments to an NHS body in connection with the performance of the functions of that body).

The Mental Health (Care and Treatment) (Scotland) Act 2003

- Section 17 (The provision of facilities to enable the carrying out of the functions of the Mental Welfare Commission);
- Section 25 (The provision of care and support services for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services;
- Section 26 (The provision of services designed to promote well-being and social development for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services;
- Section 27 (The provision of assistance with travel for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services;
- Section 33 (The duty to inquire into a person's case in the circumstances specified in 33(2));
- Section 34 (The making of requests for co-operation with inquiries being made under section 33(1) of that Act);
- Section 228 (The provision of information in response to requests for assessment of the needs of a person under section 12A(1)(a) of the Social Work(Scotland) Act 1968);
- Section 259 (The securing of independent advocacy services for persons who have a mental disorder).

Management of Offenders etc. (Scotland) Act 2005

- Sections 10-11 (Assessing and managing risks posed by certain offenders);
- Custodial Sentences and Offensive Weapons Act 2007 and any associated and subsequent amending Regulations;
- Criminal Justice and Licensing (Scotland) Act 2010 and any associated and subsequent amending legislation.

The Housing (Scotland) Act 2006

- Section 71(1)(b)(assistance for housing purposes) only in so far as it relates to an aid or adaptation.

Adoption and Children (Scotland) Act 2007

- Section 1 (Duty of Local Authority to provide adoption service);
- Sections 4-6 (Local Authority to prepare and publish a plan for the provision of adoption service; Local Authority to have regard to Scottish Ministers' Guidance and; assistance in carrying out functions under sections 1 and 4);
- Sections 9-12 (Adoption support services);
- Section 19 (Local Authority's duties following notice under section 18);
- Section 26 (Procedure where an adoption is not proceeding);
- Section 45 (Adoption support plans);
- Section 47-49 (Family member's right to require review of an adoption support plan; cases where Local Authority under a duty to review adoption support plan and; reassessment of needs for adoption support services);
- Section 51 (Local Authority to have a regard to guidance issued by Scottish ministers when preparing or reviewing adoption support plans);
- Section 71 (Adoption allowances schemes);
- Section 80 (Application to court by Local Authority for the making of a Permanence Order);
- Section 90 (Precedence of court orders and supervisions requirement over permanence order);
- Section 99 (Duty of Local Authority to apply for variation or revocation of a permanence order);
- Section 100 (Notification requirements upon Local Authority);
- Section 105 (Notification requirements upon Local Authority where permanence order is proposed – relates to child's father).

The Adult Support and Protection (Scotland) Act 2007

- Section 4 (The making of enquiries about a person's wellbeing, property or financial affairs);
- Section 5 (The co-operation with other Councils, public bodies and office holders in relation to inquiries made under section 4);
- Section 6 (The duty to have regard to the importance of providing advocacy services);
- Section 7-10 (Investigations by Local Authority pursuant to duty under section 4). Section 11 (The making of an application for an assessment order). Section 14 (The making of an application for a removal order);

- Section 16 (Council officer entitled to enter any place in order to move an adult at risk from that place in pursuance of a removal order);
- Section 18 (The taking of steps to prevent loss or damage to property of a person moved in pursuance of a removal order);
- Section 22 (The making of an application for a banning order);
- Section 40 (The making of an application to the justice of the peace instead of the sheriff in urgent cases);
- Section 42 (The establishment of an Adult Protection Committee);
- Section 43 (The appointment of the convener and members of the Adult Protection Committee).

Children's Hearings (Scotland) Act 2011

- Section 35 (Child assessment orders);
- Section 37 (Child protection orders);
- Section 42 (Application for parental responsibilities and rights directions);
- Section 44 (Obligations of Local Authority where, by virtue of a child protection order, child is moved to a place of safety by a Local Authority);
- Section 48 (Application for variation or termination of a child protection order);
- Section 49 (Notice of an application for variation or termination of a child protection order);
- Section 60 (Duty of Local Authority to provide information to Principal Reporter);
- Section 131 (Duty of implementation authority to require review of a compulsory supervision order);
- Section 144 (Implementation of a compulsory supervision order: general duties of implementation authority);
- Section 145 (Duty of implementation authority where child required to reside in a certain place);
- Section 153 (Secure accommodation);
- Sections 166-167 (Requirement imposed on a Local Authority: review and appeal);
- Section 180 (Sharing of information with panel members by Local Authority);
- Section 183-184 (Mutual assistance).

Social Care (Self-directed Support) (Scotland) Act 2013

- Section 3 (The consideration of an assessment of an adults ability to provide or continue to provide care for another person and the making of a decision as to whether an adult has needs in relation to care that the adult provides for another person, the decision as to whether

support should be provided to that adult in relation to those needs, and the provision of that support);

- Section 5 (The giving of the opportunity to choose a self-directed support option);
- Section 6 (The taking of steps to enable a person to make a choice of self-directed support option);
- Section 7 (The giving of the opportunity to choose a self-directed support option);
- Section 8 (Choice of options: children and family members);
- Section 9 (The provision of information);
- Section 10 (Provision of information: children under 16);
- Section 11 (Giving effect to the choice of self-directed support option).
- Section 12 (Review of the question of whether a person is ineligible to receive direct payments);
- Section 13 (Offering another opportunity to choose a self-directed support option);
- Section 16 (The recovery of sums where a direct payment has been made to a person and the circumstances set out in section 16(1)(b) apply);
- Section 19 (Promotion of the options for self-directed support).

Miscellaneous

4.27. Exercise the foregoing functions of the Council in terms of the following legislation which relate to the services detailed in the first paragraph hereof:

- Local Government (Scotland) Act 1973;
- Local Government (Scotland) etc Act 1994;
- Local Government in Scotland 2003;
- Regulation of Care (Scotland) Act 2001;
- Equality Act 2010;
- Human Rights Act 1998;
- UN Convention on the Rights of the Child;
- Children (Scotland) Act 1995;
- Mental Health (Care and Treatment) (Scotland) Act 2003;
- Adults with Incapacity (Scotland) Act 2000;
- Children and Young People Act 2014;
- Public Bodies (Joint Working) (Scotland) Act 2014

Chief Social Work Officer

4.28. The duties of Chief Social Work Officer as set out at 5.18 to 5.26 will be undertaken by the Head of Social Work.

5. Duties of Statutory Officers

Head of Paid Service

5.1. The Head of Paid Service is a statutory appointment by virtue of Section 4 of the Local Government and Housing Act 1989. The Council has resolved that the Head of Paid Service is the Chief Executive.

5.2. The Head of Paid Service is responsible to Elected Members for the staffing of the Council and ensuring the work in different departments is coordinated. He or she is responsible for all aspects of the management of the Council. Together with Elected Members, the Head of Paid Service is responsible for promoting good governance by ensuring processes are in place, fit for purpose and up to date.

5.3. Although a statutory appointment, the law does not require the Head of Paid Service to hold any specific qualifications. However, the post holder is expected to have appropriate leadership, communication and interpersonal skills and qualities of integrity and impartiality in order to deliver the statutory objectives of the post.

5.4. By virtue of section 2(1)(a) of the 1989 Act, the post of Head of Paid Service is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the Council.

5.5. The overall powers of the Council's Head of Paid Service are:

- 5.5.1. To ensure the effective co-ordination of the discharge by the authority of its different functions.
- 5.5.2. To assess the number and grades of staff required by the authority for the discharge of its functions.
- 5.5.3. To ensure the effective organisation of the authority's staff.
- 5.5.4. To ensure that proper arrangements are in place for the appointment and proper management of the authority's staff.
- 5.5.5. To make a statutory report to the full Council where considered appropriate to do so in respect of the above matters.

Monitoring Officer

5.6. The Monitoring Officer is a statutory appointment by the Council by virtue of Section 5 of the Local Government and Housing Act. The Council has resolved that the Monitoring Officer is the Head of Legal and Democratic Services.

5.7. By virtue of Section 5(7) of the 1989 Act, the duties of the Monitoring Officer must be carried out personally by them or, where they are unable to act owing to absence or illness, personally by such member of their staff nominated by them as their depute(s).

5.8. By virtue of Section 2(1)(e) of the 1989 Act, the post of Monitoring Officer is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the Council.

5.9. The Monitoring Officer is responsible for advising Elected Members about the legal position of proposed actions. It is the duty of the Monitoring Officer to prepare a report for the Council if it appears to him or her that the Council, a Committee, Sub-Committee or officer of the Council has given rise to or is likely to contravene the law or give rise to maladministration or injustice.

5.10. Although a statutory appointment, the law does not require the Monitoring Officer to hold any specific qualification, and in particular, they do not require to be a solicitor or advocate. However, the recommendation of Audit Scotland is that the post holder should be in a position of sufficient seniority within the Council to enable them to carry out their statutory responsibilities effectively. This means that, irrespective of the substantive post which the Monitoring Officer holds in the Council, they will either be a member of the Council's Corporate Management Team, or have direct access to the Council's Chief Executive, Directors, Heads of Service and Legal and Licensing Manager as they see fit.

5.11. The overall powers of the post are:

- 5.11.1. To ensure that the Council complies with the requirements of the law and any statutory Codes of Practice relevant to the carrying out of the Council's duties and the delivery of the Council's services.
- 5.11.2. To ensure that, where any contravention of the law, Code of Practice or corporate governance system has arisen, or is likely to, appropriate advice is given to the Chief Executive and relevant senior officers of the Council regarding the mitigation, rectification or prevention of such contraventions.
- 5.11.3. To draw to the attention of the Leader or any Chairman, any motion or amendment which may contravene any law or code of procedure in order that the Leader or Chairman can determine whether the motion or amendment will be considered by Council, Committee etc.

- 5.11.4. To make a statutory report to the full Council regarding any breach or potential breach of the law or statutory code of practice by the Council where it proves impossible to rectify or prevent such breach.
- 5.11.5. To act as the Council's point of contact by the Public Standards Commissioner for Scotland and the Standards Commission for Scotland regarding complaints concerning alleged breaches of the Councillors' Code of Conduct.
- 5.11.6. To carry out such investigations as the Chief Executive may determine as relevant to the Monitoring Officer's role.
- 5.11.7. To obtain, at their discretion, the opinion of Counsel or external solicitors on any matter relevant to the Monitoring Officer's role.
- 5.11.8. To provide appropriate advice to Elected Members and Council officers regarding the promotion of high standards of conduct, and ensure that suitable training is given regarding compliance with the Code of Conduct for Councillors.
- 5.11.9. To carry out such other duties compatible with the role of the Monitoring Officer as the Council may delegate, or as the Chief Executive may request.

Corporate Rights

- 5.12. The Monitoring Officer has the following rights in respect of the carrying out of their statutory role:
 - 5.12.1. To have unqualified access to any information held by the Council and to any Officer of the Council who can assist in the discharge of their statutory role.
 - 5.12.2. To have access to all reports to the Council, its Committees, Sub-Committee, Joint Boards, Joint Committees and Working Groups, as he or she sees fit.

Proper Officer for Financial Arrangements (Chief Financial or Section 95 Officer)

5.13. The Proper Officer for Finance Arrangements is a statutory appointment by virtue of Section 95 of the Local Government (Scotland) Act 1973 which requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a Chief Financial Officer (CFO) to have responsibility for those arrangements. The Council has resolved that the proper officer is the Head of Finance and Procurement.

5.14. By virtue of section 2(1)(b) and (6)(d) of the Local Government and Housing Act 1989, the post of CFO is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the Council.

5.15. The Chief Financial Officer (Section 95 Officer) is responsible for the financial affairs of the Council. A fundamental element of the role is to ensure sound financial management through establishing and maintaining internal financial controls and in providing professional advice to councillors on all aspects of the Council's finances.

5.16. In Scotland, there is no statutory requirement for the CFO to be a member of a specified accountancy body, however in accordance with guidance published by the Chartered Institute of Public Finance and Accountancy practice (The Role of the Chief Financial Officer) it is widely acknowledged to be good practice.

5.17. The overall powers of the CFO post are:

- 5.17.1. To lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.
- 5.17.2. To lead and direct a finance function that is resourced and fit for purpose.
- 5.17.3. To manage the Council's financial resources to ensure the delivery of strategic objectives.
- 5.17.4. To be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, so that there is alignment with the authority's overall financial strategy.
- 5.17.5. Corporate Accounting Arrangements – ensuring adequate systems of accounting control are maintained throughout the Council and that services conform with Council policy, legislation and codes of practice.
- 5.17.6. Financial Regulations – maintaining a continuous review and submitting any changes, other than of a minor nature, to the Council Management Team for approval.
- 5.17.7. General Service Capital Budget and General Fund Revenue Budget – preparing and monitoring in accordance with Financial Regulations.
- 5.17.8. Administration of the Sundry Debtors System.

- 5.17.9. Banking and Insurance Arrangements.
- 5.17.10. Signing Operating and Finance Leases.
- 5.17.11. Treasury Management - ensure that the Council's annual Treasury Management Plan complies with the Treasury Management Code, The CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code) and the Local Government Investments (Scotland) Regulations 2010.
- 5.17.12. Payment Processing and Supplier Invoice Administration – In accordance with the Late Payments and Commercial Debts Act 1998.

Chief Social Work Officer

5.18. The Chief Social Work Officer is a statutory appointment by virtue of Section 3 of the Social Work (Scotland) Act 1968. The Council has resolved that the Head of Social Work is the Chief Social Work Officer.

5.19. The Chief Social Work Officer is appointed for the purposes of the Council's functions under the 1968 Act and under those other enactments listed in Section 5(1B) of that Act. In broad terms, those functions cover all social work and social care services whether provided directly by the Council, in partnership with other agencies, or procured by the Council and provided by others on its behalf. Those functions are referred to in this document as "social work services".

5.20. Councils are required to appoint a professionally qualified Chief Social Work Officer to provide members and senior officers with effective, professional advice about the delivery of social work services. The Chief Social Work Officer has a responsibility to highlight where a Council policy may endanger lives or welfare and to ensure that councillors and officers are provided with professional advice in relation to social work and social care services.

5.21. The qualifications required for the post are set out in the Qualifications of Chief Social Work Officers (Scotland) Regulations 1996 (S.I. 1996/515 (1996/49)).

5.22. The Chief Social Work Officer is required by section 5(1) of the 1968 Act to carry out the duties of the post under the general guidance of the Scottish Ministers. The Scottish Ministers issued revised and finalised guidance in January 2010.

<http://scotland.gov.uk/Resource/Doc/300422/0093741.pdf>

5.23. The Chief Social Work Officer is a "proper officer" of the Council in relation to its social work functions. By virtue of section 2(1)(b) and (6)(c) of the Local Government and Housing Act 1989, the post is designated as a politically restricted post, and accordingly is included in the list of such posts required to be maintained by the Council.

5.24. The overall powers of the Chief Social Work Officer post are:

- 5.24.1. To confidently manage the discharge of the Council's statutory social work duties;
 - 5.24.2. To ensure the provision of effective professional and objective advice to Elected Members and officers of the Council in the Council's provision of social work services;
 - 5.24.3. To secure the effective provision of social work services.
- 5.25. The powers of the Chief Social Work Officer fall into two broad categories - service provision and corporate responsibility.

Service Provision

5.26. In relation to service provision:

- 5.26.1. To establish and develop social work services focussed on the needs of service users, to promote the continuous improvement of those services, and to monitor and raise standards of their delivery;
- 5.26.2. To ensure the effective governance of the balance of need, risk and civil liberties in the provision of social work services in accordance with professional practice;
- 5.26.3. To provide advice on all aspects of workforce planning including safe recruitment practice, supervision, monitoring and assessment of social work students, securing of professional qualifications and continuous learning and development for staff, and supporting and advising managers in all aspects of staff supervision;
- 5.26.4. To ensure the existence of systems to both promote good practice and identify and address poor practice in the provision of social work services;
- 5.26.5. To ensure that significant case reviews are undertaken of all critical incidents either resulting in, or which may have resulted in, serious harm or death; and
- 5.26.6. To take final decisions binding on the Council in relation to a range of social work services where provided by statute and by the Council's Scheme of Delegation and Responsibilities to Officers and Statutory Appointments.

Corporate Responsibilities

5.27. The Chief Social Work Officer has the following corporate powers which require direct access to the Council's Chief Executive and Elected Members, and the provision of forthright and independent advice to them:

- 5.27.1. To ensure compliance with the Council's statutory duties to prepare, publish and review plans for the provision of social work services;
- 5.27.2. To promote, communicate, support and review values and standards of professional practice, and to ensure that they are adhered to;

- 5.27.3. To establish, in conjunction with the Council's Corporate Management Team, appropriate experience and qualified cover for the post of Chief Social Work Officer during the post-holder's absence or incapacity;
- 5.27.4. To report to the Chief Executive any failure in the Council's corporate policy or governance arrangements designed to reflect the proper balance amongst need, risk and civil liberties in the provision and management of social work services;
- 5.27.5. To report to the Chief Executive any weaknesses and failures in the systems in place to promote good practice and identify and address poor practice in the provision of social work services;
- 5.27.6. To report and provide independent comment where necessary to the Chief Executive and Elected Members on the findings of significant case reviews and relevant performance reports and on any other social work related issues; and
- 5.27.7. To provide an annual report to the Council on all of the statutory, governance and leadership functions of the role of the Chief Social Work Officer.

Statutory Appointments of Officers

5.28. In terms of various statutes, the Council is required to appoint Officers for a variety of particular purposes. Officers so appointed are empowered to take such action as is implicit in their role.

5.29. The Officers who currently carry out these functions are summarised below.

Statutory Provision	Purpose/Role	Officer
Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003		
Regulations 4,5,6	Proper Officer for receipt of notices of Councillors' interests and maintenance of records	Director Corporate Services
Licensing (Scotland) Act 2005 and Civic Government (Scotland) Act 1982		
	Clerk to the Licensing Board	Head of Legal and Democratic Services
s.113	Proper Officer in respect of evidence of management rules	Director Corporate Services
Local Authorities (Contracts) (Scotland) Regulations 1997		
r.4	Proper Officer for certification purposes	Head of Legal and Democratic Services
Local Government (Scotland) Act 1973		
s.33A	Officer before whom the Declaration of Acceptance of Office may be made	Director Corporate Services

Statutory Provision	Purpose/Role	Officer
s.34	Proper Officer for receipt of Councillors' resignations	Director Corporate Services
Sections 43 and 50 A-J and Schedules 7 and 7A	Proper Officer with regard to meetings of the authority and its Committees and Sub-Committees	Director Corporate Services
s.43 and schedule 7 para 1(4)	Proper Officer for receipt of requisition for special Council meeting	Director Corporate Services
s.43 and schedule 7 para 2(1)	Proper Officer to sign summons to special Council meetings	Director Corporate Services
s.92	Proper Officer for dealing with the transfer of securities	Head of Finance and Procurement
s.95	Proper Officer for the administration of the Council's financial affairs	Head of Finance and Procurement
s.145	Proper Officer in respect of Ordnance Survey applications	Director Economy, Environment and Infrastructure
s.189	Proper Officer to institute legal proceedings	Head of Legal and Democratic Services
s.190	Proper Officer for service of legal proceedings, notices etc on the Council	Head of Legal and Democratic Services
s.191	Proper Officer to sign any claim on behalf of the Council in any sequestration, liquidations and other such proceedings in which the Council is entitled to make a claim	Head of Legal and Democratic Services
s.193	Proper Officer to sign notices, orders etc	Head of Legal and Democratic Services
s.194	Proper Officer in respect of the use of the Council's seal	Head of Legal and Democratic Services
s.197	Proper Officer in respect of the inspection and depositing of documents	Head of Legal and Democratic Services
s.202	Proper Officer to authenticate byelaws and deliver copies to other relevant authorities	Head of Legal and Democratic Services

Statutory Provision	Purpose/Role	Officer
s.202B	Proper Officer to certify entry in register of byelaws	Head of Legal and Democratic Services
s.204	Proper Officer to provide certificate as evidence of byelaws	Head of Legal and Democratic Services
s.206	Proper Officer in respect of the keeping of a register of persons admitted as freemen of the Council's area	Director Communities
s.231	Proper Officer to make application to the Sheriff on questions arising from the Local Government (Scotland) Act 1973	Head of Legal and Democratic Services
Local Government and Housing Act 1989		
s.2	Proper Officer in respect of lists of politically restricted posts	Head of Organisational Developments, Human Resources and Assets
s.4	Head of Paid Service	Chief Executive
s.5	Monitoring Officer	Head of Legal and Democratic Services
Local Government (Scotland) Act 1994		
s.27	Assessor	Assessor and Electoral Registration Officer
s.45	Chief Social Work Officer	Head of Social Work
Planning etc (Scotland) Act 2006		
Part 3 – Local Review Bodies	Proper Officer for signing Notices in relation to decisions of the Local Review Body	Director Corporate Services
The Requirements of Writing (Scotland) Act 1995		
Sub para 1 of para 4	Proper Officer for the signing of documents	Head of Legal and Democratic Services
Representation of the People Act 1983 (as amended by ROPA 2000)		
s.8	Requirement for Local Authority to appoint an Electoral Registration Officer	Assessor and Electoral Registration Officer
s.41	Returning Officer	Chief Executive
s.67-70	Notification of matters relating to election agents	Chief Executive

Statutory Provision	Purpose/Role	Officer
s.82(4)(b)	Officer before whom declaration as to election expenses may be made	Chief Executive
s.131(1)	The provision of accommodation for the election count	Chief Executive
s.133(1)	The seeking of repayments of expenses of the election count at the discretion of the court	Chief Executive