



## SCHEME OF ADMINISTRATION

Council Building  
2 High Street  
Perth PH1 5PH

Effective from 4 January 2021 ~~1 August 2020~~

## SCHEME OF ADMINISTRATION

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## PERTH & KINROSS COUNCIL

### SCHEME OF ADMINISTRATION

#### Arrangements for the discharge of the functions of the Council in terms of Section 56 of the Local Government (Scotland) Act 1973

#### SECTION 1 – GENERAL

##### Purpose

- 1.1 The Scheme regulates:-
- The constitution and membership of the Committees of the Council;
  - The functions of the Committees of the Council;
  - The delegation to Committees to exercise the functions of the Council;  
and
  - The delegation to officers to exercise the functions of the Council

##### Commencement

- 1.2 The Scheme shall apply with effect from 4 January 2021.

##### Interpretation

- 1.3 The Interpretation Act 1978 shall apply to the interpretation of the Scheme as it would apply to the interpretation of an Act of Parliament.

##### Definitions

- 1.4 In the Scheme the following words shall have the meanings assigned to them, that is to say:

“the 1973 Act” means the Local Government (Scotland) Act 1973, as amended;

“the 1994 Act” means the Local Government etc. (Scotland) Act 1994;

“Council” means the Perth and Kinross Council incorporated under the 1994 Act.

‘Chief Executive’ means the Chief Executive appointed by the Council.

‘Executive Director’ means any Executive Director appointed by the Council.

‘Provost’ means the civic head appointed by the Council.

### Alteration of Scheme

- 1.5 Subject to the provisions of the 1973 Act, the Council shall be entitled to amend, vary or revoke the Scheme from time to time.
- 1.6 The Chief Executive shall have the power to alter the Scheme to correct any textual or minor errors, or to make any consequential amendments required as a result of a decision of the Council. Any such alteration shall be notified to the Head of Legal and Governance Services and made to the version of the Scheme retained by the Head of Legal and Governance Services.

### Committees

- 1.7 Subject to the provisions of the 1973 Act or any other Act or statutory order relating to the appointment of Committees, the Council will appoint and maintain the following Committees:-

Audit Committee  
 Environment and Infrastructure Committee  
 Housing and Communities Committee  
 Licensing Committee  
 Lifelong Learning Committee  
 Planning and Development Management Committee  
 Local Review Body  
 Pre-determination Committee  
 Scrutiny Committee  
 Strategic Policy and Resources Committee

Together with:-

10 Common Good Fund Committees:-

- Aberfeldy Common Good Fund Committee
- Abernethy Common Good Fund Committee
- Alyth Common Good Fund Committee
- Auchterarder Common Good Fund Committee
- Blairgowrie Common Good Fund Committee
- Coupar Angus Common Good Fund Committee
- Crieff Common Good Fund Committee
- Kinross Common Good Fund Committee
- Perth Common Good Fund Committee
- Pitlochry Common Good Fund Committee

- 1.8 The respective Committees of the Council will have the constitution, quorum, terms of reference and delegated powers hereinafter specified under the appropriate section of the Scheme.
- 1.9 The Council may from time to time appoint such other Committees, Sub Committees etc. and/or Working Parties with such constitution, quorum, terms of reference and delegated powers as the Council may decide.

- 1.10 Functions are also delegated to the Perth and Kinross Integration Joint Board, which is a statutory body constituted in terms of The Public Bodies (Scotland) (Integration Joint Board Establishment) (Scotland) Order 2015.
- 1.11 The remit, membership and operation of the Local Negotiating Committee for Teachers will be as previously determined by Council and as stated within its Constitution.

## **SECTION 2 - PROVISIONS RELATING TO COMMITTEES**

### **Appointments to Committees**

- 2.1 The provisions of this Section of the Scheme shall apply to the Committees of the Council. The Committees referred to in Paragraph 1.6 above shall be appointed at the first meeting of the Council following the ordinary election of Councillors in an election year. Subject to the right of the Council to make changes in the membership of the Committees at any time, on being appointed to a Committee, a member shall continue to be a member of that Committee until the day of the next ordinary election of Councillors or until they cease to be a member of the Council. Any member of the Council has the right to resign from any Committee.
- 2.2 Any person not being a member of the Council, who in terms of this Scheme is appointed as a member of any Committee shall, subject to the right of the Council to make changes in the membership of any Committee, be a member of that Committee from the day of their appointment until the day of the next ordinary election of Councillors.
- 2.3 Council members of Committees and Sub-Committees shall be appointed having regard, so far as is reasonably possible, to the political groups represented on the Council.

### **Casual Vacancies**

- 2.4 Casual vacancies occurring in any Committee shall be filled at the earliest practicable meeting of the Council after the vacancy occurs or in the case of a Sub-Committee at the earliest practicable meeting of the relevant Committee.

### **Right of Council to Review**

- 2.5 The decisions of the Committees on all functions excluded from delegation under either the general exclusions below or any specific exclusion in respect of a particular Committee, shall be subject to review by the Council in accordance with the provisions of [Standing Orders](#). The Council may at any time review a Committee's Terms of Reference and direct that a function should be specifically excluded from delegation to a Committee.

### **Power of Council to Refer a Matter to a Committee**

- 2.6 Notwithstanding the reference to one Committee of any function, and without prejudice to any statutory provisions, the Council shall have power to refer any function on a particular occasion specifically to another Committee when by reason of the nature of the question the Council considers it should be so referred.

### Functions Referred to Two or More Committees

- 2.7 Where any question arises out of, or is connected with, the functions referred to two or more Committees, the Chief Executive in consultation with the relevant conveners will determine which Committee will deal with the issue.

### Appointment of Sub-Committees

- 2.8 A Sub-Committee appointed by a Committee may consist in part of persons not being members of the Council, but at least two-thirds of the members of any such Sub-Committee shall be members of the Council; provided that a Sub-Committee of the Lifelong Learning Committee when dealing with educational matters may comprise up to one-half of persons who are not members of the Council.

~~\* The Social Work Complaints Review Committee will remain in existence solely to deal with complaints submitted prior to 1 April 2017 and thereafter will be dissolved. Until dissolved it will report to the Scrutiny Committee and its remit, membership and operation will be as previously decided by Council.~~

- 2.9 Without prejudice to the foregoing, each Committee, with the exception of the Planning and Development Management Committee, the Licensing Committee and the Scrutiny Committee, shall appoint an Executive Sub-Committee with delegated powers to decide any matter which would normally be decided by the Committee but which, by reason of urgency, requires to be decided prior to the next scheduled meeting of the Committee.

### Terms of Reference

- 2.10 All functions detailed under the Terms of Reference for a Committee shall stand delegated to that Committee with the exception of those general exclusions detailed below and any specific exclusion detailed in respect of a particular Committee.
- 2.11 Notwithstanding the foregoing, a Committee or Sub-Committee, not being one referred to in **Standing Order 28 of the Council's [Standing Orders](#)**, may, in making any decision upon a matter which has been delegated to it by this Scheme, agree that the decision should be in the form of a recommendation to the Council for its approval or that the decision should be referred simpliciter to the Council for its decision.

### Delegated Functions

- 2.12 Except otherwise specified herein, subject to the provisions of the 1973 Act, any other relevant statute, where any function of the Council is delegated to a Committee, the Committee will have the power to exercise the function as the Council would have exercised it had there been no delegation.

## **General Exclusions from Delegation to Committees**

### **POWERS RESERVED TO COUNCIL**

- 2.13 The powers reserved to the Council include those which must be reserved in terms of statute and those which the Council has chosen to reserve. Powers which are not reserved are delegated in accordance with the provisions of this Scheme, save as the Council otherwise directs.
- 2.14 The following is a comprehensive list of what is reserved to the Council, categorised as statutory and non-statutory:

#### **Statutory Reservations**

##### **Local Government (Scotland) Act 1973**

- To change the name of the Council. **(Section 23)**
- To approve reasons for the non-attendance of Councillors at meetings (Section 35)
- To set Council Tax. **(Section 56(6))**
- To appoint Committees (including Panels). **(Section 57)**
- To promote and oppose private legislation. **(Section 82)**

##### **Local Government and Housing Act 1989**

- To consider reports by the Head of Paid Service **(Section 4)**
- To consider reports by the Monitoring Officer **(Section 5)**

##### **Local Government etc (Scotland) Act 1994**

- To appoint the Convener and Depute Convener of the Council and to decide on their titles (currently known as Provost and Depute Provost). **(Section 4)**

##### **Licensing (Scotland) Act 2005**

- To decide whether or not to divide the Council's area into licensing divisions and to appoint Members to the Licensing Board. **(Section 5)**

##### **Town & Country Planning (Scotland) Act 1997**

- To determine planning applications which are (a) national developments or (b) major developments which are significantly contrary to the Development Plan, such applications having first been the subject of consideration by a Pre-Determination Hearing.



### **Local Authority Accounts Regulations**

- To receive the certified abstract of the Council's Audited Statement of Accounts.

### **General**

- Taking any other decisions which cannot by law be delegated to a Committee or an Officer.
- Any other functions or matters which may from time to time be reserved to the Council by law.

### **Non Statutory Reservations**

#### **Elections**

- To consider matters relating to the fixing or amendment of the Council's geographic boundaries, its electoral boundaries and wards or matters relating to the fixing or amendment of the boundaries of the Scottish and Westminster Parliamentary Constituencies lying wholly or partly within the Perth & Kinross Council area.
- Determining all matters relating to elections which are not the responsibility of the Returning Officer (the person appointed to administer elections in accordance with the Representation of the People Act 1983).

### **Councillors' Allowances**

- To determine and keep under review a Scheme of Members' Allowances and to determine all matters relevant to the level of Councillors' allowances.

### **Codes of Conduct**

- To determine any issues relating to the maintenance of standards and conduct of Councillors and Officers, subject to any overriding legislative provisions.

### **Committee Structure & Corporate Governance Arrangements**

- To fix and amend the constitution, membership and functions of Committees, and, to appoint and remove Conveners, Vice-Conveners and members of Committees.
- To select and deselect, members to serve on and/or to represent the Council on other bodies where such power is not expressly delegated to a Committee.

- To fix and amend a programme of Council, Committee and Sub-Committee meetings, subject to the provisions of the Council's [Standing Orders](#) for the regulation of proceedings and business.
- To appoint and remove members to serve on Joint Committees, Joint Boards and external organisations.
- To make and amend a Scheme of Administration detailing terms of reference for, and delegations to, Committees, Sub-Committees and Officers of the Council.
- To make and amend [Standing Orders](#) for the regulation of proceedings and business.
- To make and amend Financial Regulations.
- To delegate a power or duty of the Council to, or to accept a delegated power from, any other local authority.
- To determine whether to co-operate or combine with other local authorities in providing services.

#### **Resources – Financial**

- To determine the Council's annual revenue budget and capital programme, other than the specific delegation to the Housing and Communities Committee regarding the Housing Revenue Account.
- To incur revenue or capital expenditure which is not contained within the overall budgetary provision of the Council and which requires supplementary estimates.
- To make arrangements in accordance with the CIPFA Code of Practice on Treasury Management and the Council's Financial Regulations for the borrowing of monies required by the Council and the investment of any surplus funds accrued by the Council. To make arrangements for the administration of the Council's Loans Fund to include consideration of Annual Treasury Strategy and policies (including approval of all loans), the mid-year report and annual report on Treasury Management.

#### **Chief Officers & Statutory Appointments**

- To determine the process for selection, appointment, disciplinary action or dismissal of the Chief Executive.

### **Land Use Planning**

- To exercise the functions of the Council as a Joint Strategic Development Planning Authority which are subject to the provisions of the Minute of Agreement among Angus, Dundee City, Perth and Kinross and Fife Councils in relation to the Dundee, Perth, Angus and North Fife Strategic Development Plan Authority.
- The preparation, review, amendment and adoption of the Local Development Plan.

### **Community Councils**

- The preparation, review, amendment and adoption of the Scheme of Establishment for Community Councils.

### **Common Seal/Coat of Arms**

- To authorise the use of the Council's Common Seal and Coat of Arms.

### **Standing Orders**

- 2.15 Meetings of the Council, Committees and Sub-Committees will be conducted in accordance with the Council's [Standing Orders](#) regulating the proceedings and business at meetings.

### **Timetable**

- 2.16 The ordinary meetings of the Council, Committees and Sub-Committees will be held in accordance with a timetable determined by the Council from time to time.

### **Minutes of Committees**

- 2.17 Items that are marked with an asterisk in the minutes of Committees or Sub-Committees are items for the approval of the Council and all other items are submitted for the information of the Council.

### **Reports to Committees or Sub-Committees**

- 2.18 Only those reports which require a decision to be taken by a Committee or Sub-Committee of the Council, or are necessary to enable the Committee or Sub-Committee to discharge its business, will normally be included on the agenda of any Committee or Sub-Committee. It shall be delegated to the Chief Executive to make the final determination on whether or not an item of business should be included on an agenda. Any reports which are for information only will normally be circulated to all members of the Council by the Head of Legal and Governance Services.

**Appointment of Working Groups Involving Members**

- 2.19 Working Groups may be set up by the Council, Committees or Sub-Committees to allow members to work with relevant officers, and invited members of the public and other agencies to draft policy, or to monitor a particular activity, or for another reason.
- 2.20 The Council, Committee or Sub-Committee shall determine the membership of the Working Group.
- 2.21 The Council, Committee or Sub-Committee shall determine and may adjust, the remit of the Working Group, including its expected life span.
- 2.22 Any matter may be referred by the Council, Committee or Sub-Committee to a Working Group, but no Working Group may take a decision on behalf of the Council, Committee or Sub-Committee.
- 2.23 If a Working Group identifies or considers a matter which requires a decision, a report shall be submitted to the Council, Committee or Sub-Committee by the lead officer.
- 2.24 The Convener of a Working Group shall regulate the conduct of business at meetings, and shall ensure that all members receive a fair hearing. The Council's [Standing Orders](#) shall not apply to Working Groups.
- 2.25 A member of a Working Group who is unable to attend a meeting may appoint substitute member to attend in their place.
- 2.26 A member who has not been appointed to a Working Group but who wishes to attend a meeting of the Working Group either as an observer or with a view to contributing to the discussion at the meeting, should seek approval in advance from the Convener of the relevant Working Group.

### **3. STRATEGIC POLICY AND RESOURCES COMMITTEE**

#### **Membership**

- 3.1 The Strategic Policy and Resources Committee shall consist of fifteen members of the Council and the Convener of the Council in an ex-officio capacity.

#### **Quorum**

- 3.2 Four members of the Committee shall constitute a quorum.

#### **Terms of Reference**

- 3.3 There shall stand referred to the Strategic Policy and Resources Committee the following functions:

#### **General**

- 3.4 To determine strategic policy objectives and priorities for the Council.
- 3.5 To consider matters arising from or in connection with any local government associations.
- 3.6 To consider all other matters not specifically referred to any other Committee other than those referred to the Council.

#### **Community Planning and Community Empowerment**

- 3.7 To determine the Council's policies to fulfil its statutory role in relation to Community Planning and community empowerment.

#### **Continuous Improvement**

- 3.8 To determine and oversee the implementation of the Council's policies in relation to the achievement of Best Value.
- 3.9 Without prejudice to the duties and responsibilities and delegated authority of other Committees, to review the performance and effectiveness of all the Council's work and the standards and level of service provided; to review the need to retain existing services; and to co-ordinate where necessary all the matters referred to in this sub-paragraph in respect of the Committees and Services of the Council.
- 3.10 To ensure that the organisation and management processes of the Council make the most effective contribution to the achievement of the Council's objectives; to keep them under review in the light of changing circumstances, making recommendations as necessary for change in either the Committee or management structure, or the distribution of functions and responsibilities.

## Health and Social Care

- 3.11 To consider and determine the Council's position as a partner on matters related to the operation of the Perth and Kinross Integrated Joint Board and which are required to be agreed between the Council and NHS Tayside in terms of the Public Bodies (Joint Working) (Scotland) Act 2014 and the [Perth and Kinross Integration Scheme](#), being an agreement between Perth and Kinross Council and Tayside NHS Board approved by Scottish Ministers in March 2015.

## Health

- 3.12 To promote and develop relationships with local health and social care agencies and to work in partnership to ensure the provision of health services for people living in Perth and Kinross.
- 3.13 To monitor and respond to the activities and policies of NHS Tayside and other agencies as they affect health services for people living in Perth and Kinross.

## Adult Protection

- 3.14 To oversee the work of the Adult Protection Committee in relation to the Adult Support and Protection (Scotland) Act 2007 and all related subordinate legislation.

## Land Use Planning

- 3.15 To exercise the functions of the Council in relation to Development Plans, including functions described in Part II of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) Act 2006 and all related subordinate legislation; with the exception of those functions conferred on the Council as a Joint Strategic Development Planning Authority which are subject to the provisions of the Minute of Agreement among Angus, Dundee City, Perth and Kinross, and Fife Councils in relation to the Dundee, Perth, Angus and North Fife Strategic Development Plan Authority.

## Economic Development

- 3.16 To exercise the functions of the Council in relation to economic development, including the functions provided for in Sections 171A, 171B, 171C and 176 of the 1994 Act, and all related subordinate legislation.
- 3.17 To develop measures to support and promote economic activity in the Council's area including the Council's schemes of financial assistance to businesses, trade development initiatives, advice and assistance to businesses and the attraction of inward investment.
- 3.18 To determine the Council's economic development policy in relation to the control and management of Perth Harbour.

### **International Links/Initiatives**

- 3.19 To consider European Union affairs affecting Perth & Kinross.
- 3.20 To consider international links and liaison on economic twinning arrangements

### **Arts and Cultural Services / Sport and Leisure Services / Library and Archive Services**

- 3.21 To determine the Council's relationship with the organisations providing arts & cultural services, sport & leisure services and library and archive services on behalf of the Council.

### **Third Sector**

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

### **Financial Assistance**

- 3.23 To consider recommendations for requests for financial assistance above £50,000 and to oversee the implementation of the Code of Guidance on External Bodies and Following the Public Pound.

### **Equalities & Diversity**

- 3.24 To determine the Council's policies in relation to the advancement of equality of opportunity, in relation to both the functions of the Council and the wider community in Perth and Kinross, to eliminate unlawful discrimination, harassment and victimisation and foster good relations as required by the Equality Act (2010).

### **Financial Resources**

- 3.25 To oversee the management of the Council's financial resources.
- 3.26 To advise the Council on the Revenue Budget, Capital Programme and Council Tax.
- 3.27 To consider the draft version of the Council's accounts.
- 3.28 To approve adjustments to management budgets in excess of £100,000.
- 3.29 To approve all adjustments to management budgets between Service and / or corporate budgets.
- 3.30 To oversee the arrangements for the collection of the Council Tax and other monies due to the Council.

- 3.31 To oversee the arrangements for all insurances.
- 3.32 To oversee the arrangements for risk management.

#### **Corporate Asset Management**

- 3.33 To determine and oversee the implementation of the Council's policies in relation to the management of its Property, Greenspace, Roads, Fleet, and Information Systems & Technology assets.
- 3.34 To consider the acquisition and disposal of the Council's assets

#### **Human Resources**

- 3.35 To determine employment policies and procedures and oversee workforce management and development.

#### **Civic Services**

- 3.36 To consider matters relating to civic heritage and ceremony (including town twinning) and hospitality.

#### **Corporate Communications**

- 3.37 To determine and oversee the implementation of the Council's policies in relation to communication.

#### **Community Councils**

- 3.38 To exercise the functions of the Council in relation to Community Councils.

#### **Registration of Births, Deaths, Marriages, Civil Partnerships and Other Life Events**

- 3.39 To exercise the functions of the Council as local Registration Authority for the purposes of the Registration of Births, Deaths and Marriages (Scotland) Act 1965, Marriage (Scotland) Act 1977, Civil Partnership Act 2004 and the Local Electoral Administration and Registration Services (Scotland) Act 2006, and all related subordinate legislation.

#### **Contracting, Tendering and Procurement**

- 3.40 To determine the Council's procurement strategy, and oversee the arrangements for ensuring effective procurement practice, both for the Council's own activities, and also shared procurement at Tayside and national level.



## Sub-Committees

3.41 The Committee shall appoint the following Sub-Committees:

### 1. Executive Sub-Committee

Comprising five members of the Committee.

#### Terms of Reference

It shall be delegated to the Sub-Committee to decide any matter which would normally be decided by the Committee, but which, by reason of urgency, requires to be decided prior to the next scheduled meeting of the Committee.

To determine requests from Chief Officers for flexible retirement, voluntary early retirement on grounds of efficiency of the Service or redundancy.

### 2. Appointments Sub-Committee

\*Comprising four members of the Committee and the Convener of the appropriate Committee, together with the Chief Executive.

*\*In relation to the post of Chief Executive, the members of the Sub-Committee will be appointed by the Council.*

#### Terms of Reference

It shall be delegated to the Sub-Committee to consider applications for and make appointments to posts of Chief Executive, Executive Director and Chief Operating Officer.

### 3. Provost's Sub-Committee

Comprising four Members of the Committee and the Convener of the Council.

#### Terms of Reference

It shall be delegated to the Sub-Committee to determine in relation to civic heritage and ceremony (including town twinning) and hospitality.

### 4. Appeals Sub-Committee

Comprising three members of the Council, drawn from the Lifelong Learning Committee when considering appeals by teaching staff.

Terms of Reference

It shall be delegated to the Sub-Committee to hear, consider and determine appeals by employees.

**5. Property Sub-Committee**

Comprising seven members of the Committee.

Terms of Reference

It shall be delegated to the Sub-Committee to determine all property – related matters referred to above in relation to Corporate Asset Management.

#### 4. SCRUTINY COMMITTEE

##### Membership

- 4.1 The Scrutiny Committee shall consist of **thirteen** members of the Council, excluding the conveners of the Environment and Infrastructure Committee; the Housing and Communities Committee and the Lifelong Learning Committee.

##### Quorum

- 4.2 Four members of the Committee shall constitute a quorum.

##### Terms of Reference

- 4.3 There shall stand referred to the Scrutiny Committee the following:

##### Continuous Improvement

- 4.4 To oversee the implementation of the Council's policies in relation to achieving Best Value.

##### Scrutiny of Service Delivery

- 4.5 Without prejudice to the responsibilities or delegated authority of other Committees, to review the performance and effectiveness of all of the Council's work and the standards and level of service provided, particularly in relation to the promotion of equality of opportunity subject to performance reports being submitted to the relevant Committee in the first instance;
- 4.6 To commission and receive reports from officers, on any aspect of service delivery and to call before the Committee any officer or appropriate Convener/Vice-Convener to answer questions thereon and make recommendations to the relevant Committee;
- 4.7 To undertake reviews on any aspect of service delivery or on any policy or the implementation thereof, and may call before the Committee any officers or members of the Council, expert witnesses or members of the public to give evidence, answer questions or provide written reports, and thereafter to make recommendations to the relevant Committee;
- 4.8 To consider trends in reports by both Education Scotland and Education and Children's Services on individual school performance, pre-school partner providers and community learning, including general aspects of education provision, learning and teaching, the curriculum, and care and welfare;
- 4.9 To consider trends in reports on inspections carried out by the Care Inspectorate

- 4.10 To consider reports on external inspections of any aspects of the Council's work and the standards and level of service provided

#### **Scrutiny of Policy**

- 4.11 To commission and receive reports on any policy to be submitted to or having been approved by the Council and the implementation thereof and may call before the Committee any officer or appropriate Convener/Vice-Convener to answer questions thereon and make recommendations to the relevant Committee; and
- 4.12 To consider and report on suggestions from the public for policy review or substantive policy changes.

#### **Corporate Governance**

- 4.13 To review the adequacy of the arrangements and procedures, policies and practices in operation in relation to corporate governance.

#### **Complaints**

- 4.14 To review and oversee the operation of the Council's complaints procedures.

#### **Scottish Public Services Ombudsman**

- 4.15 To consider any report by the Scottish Public Services Ombudsman in respect of any finding of maladministration against the Council.
- 4.16 To consider the annual reports of the Scottish Public Services Ombudsman.

#### **Risk Management**

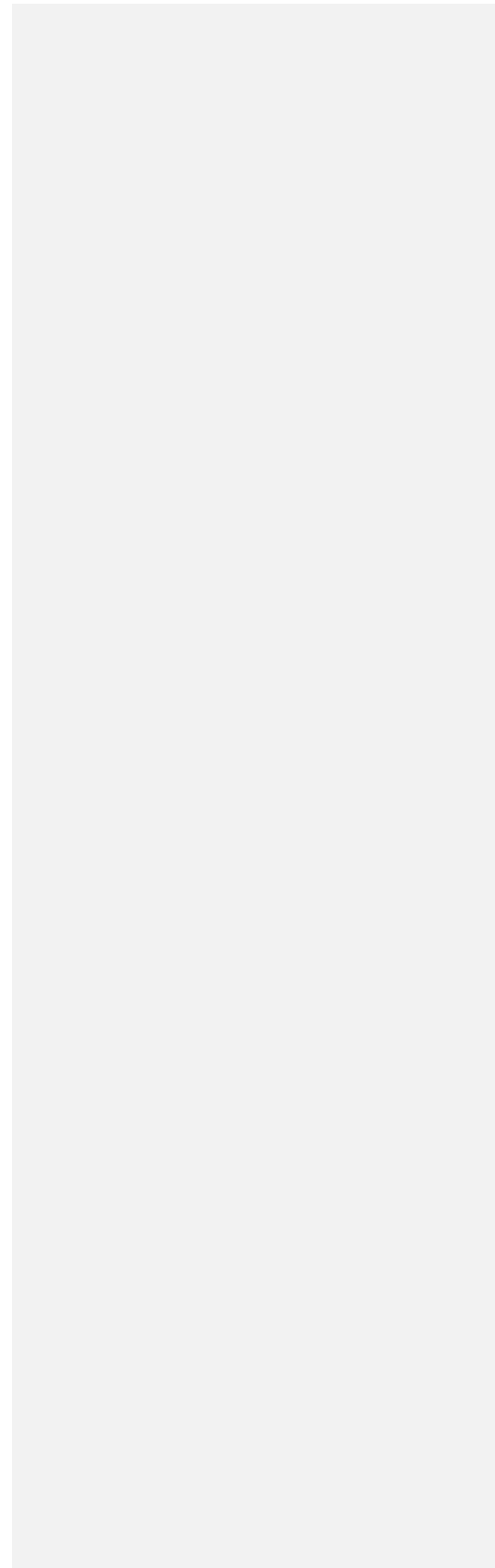
- 4.17 To review the adequacy of the arrangements and procedures in operation in relation to the assessment and management of risk.

#### **Arts and Cultural Services / Sport and Leisure Services / Library and Archive Services**

- 4.18 To scrutinise the performance of the organisations providing arts & cultural services, sport & leisure services and library and archive services on behalf of the Council.

#### **~~Sub-Committees~~**

- ~~4.19 The Committee shall appoint the following Sub-Committees:~~



### **~~\*Social Work Complaints Review Committee~~**

~~Comprising three independent persons, at least one of whom will have experience in social work matters and the conduct of proceedings before a review body or tribunal.~~

**~~NOTE:~~** ~~Independent persons should not currently be, or have been in the one year prior to being appointed to the Sub-Committee, a member or official of any local authority. Persons who are employed by organisations to which the local authority has delegated any of its social work functions cannot act as independent persons and the spouses of such members, officials or employees are similarly restricted.~~

### ~~Terms of Reference~~

~~The function of the Panel shall be to review, at the request of a complainer, the written response made by Social Work Services to any complaint in relation to the Authority's discharge or failure to discharge any of their functions under the Social Work (Scotland) Act 1968 or any other enactment referred to in Section 2(2) of the 1968 Act and to recommend any appropriate action.~~

~~\* The Social Work Complaints Review Committee will remain in existence solely to deal with complaints submitted prior to 1 April 2017 and thereafter will be dissolved. Until dissolved it will report to the Scrutiny Committee and its remit, membership and operation will be as previously decided by Council.~~

## **5. AUDIT COMMITTEE**

### **Membership**

- 5.1 The Audit Committee shall consist of seven members of the Council, subject to the Convener and Vice Convener of the Committee, in consultation with the Head of Legal and Governance Services and the Head of Finance, being able to call before the Committee such specialist advisers as deemed necessary to support the work of the Committee.

### **Quorum**

- 5.2 Two members of the Committee shall constitute a quorum.

### **Terms of Reference**

- 5.3 There shall stand referred to the Audit Committee the following:

#### **External Audit**

- 5.4 To consider reports (including the Draft Annual Audit Report and Draft Unaudited and Audited Statement of Accounts) annual management letter) by the Council's External Auditors across the full range of Council activities, other than the report accompanying the Audited Statement of Accounts.

#### **Internal Audit**

- 5.5 To consider reports by the Council's Chief Internal Auditor across the full range of Council activities

## **6. ENVIRONMENT & INFRASTRUCTURE COMMITTEE**

### **Membership**

- 6.1 The Environment & Infrastructure Committee shall consist of fifteen members of the Council.

### **Quorum**

- 6.2 Four members of the Committee shall constitute a quorum.

### **Terms of Reference**

- 6.3 There shall stand referred to the Environment & Infrastructure Committee the following:

#### **Specific**

##### **Building Standards**

- 6.4 To determine the Council's policy in relation to Building Standards, including the functions of the Council under the Building (Scotland) Act 2003 and all related subordinate legislation.

##### **Land Use Planning**

- 6.5 To exercise the functions of the Council, in partnership with other agencies, for land use planning including reclamation, environmental improvement, conservation and archaeological matters;

##### **Harbours etc.**

- 6.6 To exercise the functions of the Council in relation to harbours, piers, boatslips and jetties Council in terms of Section 154 of the Local Government (Scotland) Act 1973 and all relevant subordinate legislation, including the section of the River Tay over which the Council is Navigation Authority.

##### **International Links/Initiatives**

- 6.7 To oversee applications for and co-ordination and monitoring of funding from European programmes.

##### **Public Transport**

- 6.8 To exercise the functions of the Council with regard to public transport and concessionary travel under the Transport Act 1985 and the Transport (Scotland) Act 2001, the Concessionary Travel for Handicapped Persons (Scotland) Act 1980 and the Public Passenger Vehicles Act 1981 and all related subordinate legislation.



### **Roads and Traffic**

- 6.9 To exercise the functions of the Council as local Roads and Traffic Authority under the following Acts and all related subordinate legislation:

Roads (Scotland) Act 1984;  
Road Traffic Regulation Act 1984;  
Road Traffic Acts 1988 and 1991; and  
New Roads and Street Works Act 1991

- 6.10 To exercise the functions of the Council as Roads Authority under any local statutory provisions, insofar as applicable;
- 6.11 To exercise the functions of the Council in relation to the naming and numbering of streets in terms of the Civic Government (Scotland) Act 1982.

### **Tourism**

- 6.12 To work in partnership with VisitScotland and other agencies to plan promote oversee the implementation of tourism and events in Perth & Kinross.

### **Bereavement Services**

- 6.13 To exercise the functions of the Council in relation to bereavement services in terms of legislation relating to burials and cremations.

### **Countryside Management**

- 6.14 To exercise the functions of the Council, in partnership with other agencies, in relation to access to the countryside, including functions under the Countryside (Scotland) Act 1967, the Wildlife and Countryside Act 1981, the Land Reform (Scotland) Act 2003 and all related subordinate legislation.

### **Parks and Open Spaces**

- 6.15 To exercise the functions of the Council in relation to parks and open spaces (urban, rural and countryside) under Section 14 of the Local Government and Planning (Scotland) Act 1982.

### **Trees and Woodlands**

- 6.16 To provide, maintain and develop the Council's tree and woodland service in terms of the Town and Country Planning (Scotland) Act 1997, the Local Government and Planning (Scotland) Act 1982; and the Roads (Scotland) Act 1984.

### **Environmental Health**

- 6.17 To exercise the functions of the Council in terms of the legislation relating to control of pollution and protection of public health.

### **Flood Prevention**

- 6.18 To exercise the functions of the Council in terms of the following Acts and all related subordinate legislation:

Flood Prevention (Scotland) Act 1961  
Flood Risk Management (Scotland) Act 2009

### **Reservoirs**

- 6.19 To exercise the functions of the Council in terms of the Reservoirs Act 1975 and all related subordinate legislation.

### **Environmental Assessment**

- 6.20 To determine the Council's obligations in relation to environmental assessment of its projects, programmes, plans and strategies as set out in the Environmental Assessment (Scotland) Act 2005 and all related subordinate legislation.

### **Sustainable Development and Environmental Policy**

- 6.21 To determine the Council's Environmental Policy in partnership with other agencies to ensure that the Council meets its environmental and sustainable development obligations under international, UK and Scottish Law.

### **Environmental Protection and Enhancement**

- 6.22 To exercise the functions of the Council in relation to Environmental Protection and Enhancement under the following Acts and all related subordinate legislation:-

Environmental Protection Act 1990;  
European Air Quality Directive;  
Environment Act 1995;  
Clean Air Act 1993;  
The Environmental Assessment Act 2005;  
Nature Conservation (Scotland) Act 2004;  
Water Environment and Water Services (Scotland) Act 2003

### **Waste Management**

- 6.23 To exercise the functions of the Council in relation to refuse collection, waste disposal, waste reduction, re-use and recycling.

### **Consideration of Petitions**

- 6.24 The consideration of petitions submitted to the Council in accordance with the Council's petitions procedure and determination of the appropriate action to be taken within the terms of the procedure.

### **Sub-Committees**

- 6.25 The Committee shall appoint the following Sub-Committee:

#### **Executive Sub-Committee**

Comprising five members of the Committee.

#### Terms of Reference

It shall be delegated to the Sub-Committee to decide any matter which would normally be decided by the Committee, but which, by reason of urgency, requires to be decided prior to the next scheduled meeting of the Committee.

## **7. HOUSING AND COMMUNITIES COMMITTEE**

### **Membership**

- 7.1 The Housing and Communities Committee shall consist of thirteen members of the Council, but in addition, when dealing with housing matters, the Committee shall also consist of two representatives from tenants' and resident's associations in the Perth and Kinross area in a non-voting capacity, nominated in such a manner as may be determined by the Council.

### **Quorum**

- 7.2 Four members of the Committee shall constitute a quorum.

### **Terms of Reference**

- 7.3 There shall stand referred to the Housing and Communities Committee the following:

### **General**

#### **Housing**

- 7.4 To exercise the functions of the Council in terms of the following Acts and all related subordinate legislation:

Anti-Social Behaviour etc Act 2003  
 Council Tax (General) Regulations 1992  
 Housing Act 1988  
 Housing Benefit (General) Regulations 1987  
 Housing (Scotland) Acts 1987, 1988, 2001, 2006 (except Part 5 Houses in Multiple Occupation) and 2010  
 Housing (Scotland) Act 2014  
 Land Compensation (Scotland) Act 1973  
 Leasehold Reform Housing and Urban Development Act 1993 including

- (i) assessment of housing need and the approval of the Local Housing Strategy to address the needs identified
- (ii) Scheme of Allocation of Council houses
- (iii) addressing the needs of the homeless
- (iv) management and maintenance of the Council's housing stock
- (v) establishing Sub-Committees/review boards to consider housing benefit appeals, Council Tax Benefit appeals and housing grant appeals
- (vi) determining the rent levels of the Council's housing stock and associated properties

- 7.5 To exercise the duties and functions of the Council contained in legislation relating to Housing Standards.

- 7.6 To approve the future plans for the use of the Council Tax Fund for Affordable Housing, subject to the approval of the Strategic Policy and Resources Committee to access the Fund in the Council's Reserves.
- 7.7 To ensure that the Council meets the standards and outcomes required by all social landlords as described in the Scottish Social Housing Charter.

#### **Health**

- 7.8 To exercise the functions of the Council in terms Part 1 of the Smoking Health and Social Care (Scotland) Act 2005 and all related subordinate legislation.
- 7.9 To exercise the functions of the Council in terms of the Tobacco and Primary Medical Services (Scotland) Act 2010 and all related subordinate legislation.

#### **Community Planning and Community Empowerment**

- 7.10 To oversee the implementation of the Council's policies to fulfil its statutory role in relation to Community Planning and community empowerment.

#### **Equalities & Diversity**

- 7.11 To oversee the implementation of the Council's policies in relation to the advancement of equality of opportunity, in relation to both the functions of the Council and the wider community in Perth and Kinross, to eliminate unlawful discrimination, harassment and victimisation and foster good relations as required by the Equality Act (2010).

#### **Community Safety**

- 7.12 In partnership with other agencies, to determine oversee the implementation of the Council's policy for the enhancement of community safety.

#### **Criminal Justice**

- 7.13 To oversee the management of Criminal Justice Services by the Council.
- 7.14 To establish and sustain effective liaison with the Perth & Kinross Community Justice Partnership.

#### **Civil Contingencies and Business Continuity**

- 7.15 To exercise the functions of the Council in relation to all matters of civil contingencies and business continuity.

### **Police and Fire Liaison**

- 7.16 In terms of the Police and Fire Reform (Scotland) Act 2012:

To be involved in the development and approval of the local Police and Fire Rescue Plans.

To monitor and provide feedback on the operation and performance of local Police and Fire and Rescue Services in Perth and Kinross.

### **Road Safety**

- 7.17 To determine the Council's policy, in partnership with other agencies, on road safety.

### **Trading Standards and Environmental Health**

- 7.18 To exercise the functions of the Council in terms of the legislation relating to:

Animal Health and Welfare  
Consumer Protection  
Dog Fouling  
Fair Trading  
Food Safety  
Health and Safety at Work  
Petroleum and Explosives  
Public Health  
Water Supplies  
Weights and Measures

- 7.19 To determine oversee the implementation of the Council's policy in relation to the functions referred to above.

### **Consideration of Petitions**

- 7.20 The consideration of petitions submitted to the Council in accordance with the Council's petitions procedure and determination of the appropriate action to be taken within the terms of the procedure.

### **Sub-Committees**

- 7.21 The Committee shall appoint the following Sub-Committee:

#### **Executive Sub-Committee**

Comprising five members of the Committee.

Terms of Reference

It shall be delegated to the Sub-Committee:-

To decide any matter which would normally be decided by the Committee, but which, by reason of urgency, requires to be decided prior to the next scheduled meeting of the Committee.

## 8. LIFELONG LEARNING COMMITTEE

### Membership

- 8.1 The Lifelong Learning Committee shall consist of thirteen members of the Council, and in addition, nine persons who are not members of the Council, being –
- \*1. Three persons representative of church interests, appointed in terms of Section 124 of the 1973 Act.
  - \*2. Two teachers employed in educational establishments under the management of the Council, both in a non-voting capacity, nominated in such manner as may be determined by the Council.
  - \*3. One parent representative from Secondary Parent Councils and one parent representative from Primary Parent Councils, both in a non-voting capacity, nominated in such manner as may be determined by the Council.
  - \*4. Two representatives of children and young people from the Perth and Kinross Youth Forum, both in a non-voting capacity, nominated in such manner as may be determined by the Council.

\*The non-Council members being entitled to participate in a non-voting capacity on business being considered by the Committee which is deemed to be –

- (i) advising the authority on any matter relating to the discharge of their functions as education authority; or
- (ii) discharging any of those functions of the authority on their behalf.

### Quorum

- 8.2 Four members of the Council who are members of the Committee shall constitute a quorum.

### Terms of Reference

- 8.3 There shall stand referred to the Lifelong Learning Committee the following:

#### Specific

#### Schools Education

- 8.4 To exercise the functions of the Council as Education Authority in terms of the following Acts and all related subordinate legislation:-

Children and Young Persons (Scotland) Act 1937  
 Children (Scotland) Act 1995  
 Education (Additional Support for Learning) (Scotland) Act 2004  
 Education (Scotland) Act 1980  
 Education (Scotland) Act 2016  
 Equality Act 2010



Road Traffic Regulation Act 1984  
 Scottish Schools (Parental Involvement) Act 2006  
 Standards in Scotland's Schools etc. Act 2000

### **Early Years Services**

- 8.5 To determine and implement the Council's policy in relation to Early Years Services.
- 8.6 To enter into partnerships on behalf of the Council to ensure the provision of quality Early Years Services.

### **Children's Services**

- 8.7 To exercise the functions of the Council as Social Work Authority in relation to child care in terms of the following Acts and all related subordinate legislation:-

Adoption and Children (Scotland) Act 2007  
 Adoption (Intercountry Aspects) Act 1999  
 Adults with Incapacity (Scotland) Act 2000  
 Anti-Social Behaviour etc. (Scotland) Act 2004  
 Carers (Recognition and Services) Act 1995  
 Children (Scotland) Act 1995  
 Carers (Scotland) Act 2016  
 Children Act 1975  
 Children and Young People (Scotland) Act 2014  
 Children and Young Persons (Scotland) Act 1937  
 Children's Hearings (Scotland) Act 2011  
 Chronically Sick and Disabled Persons Act 1970  
 Chronically Sick and Disabled Persons Act 1972  
 Community Care (Direct Payments) Act 1996  
 Disabled Persons (Services, Consultation and Representation) Act 1986  
 Education (Additional Support for Learning) (Scotland) Act 2004  
 Equality Act 2010  
 Foster Children (Scotland) Act 1984  
 Immigration and Asylum Act 1999  
 Mental Health (Care and Treatment) (Scotland) Act 2003  
 Nationality, Immigration and Asylum Act 2002  
 Protection of Children (Scotland) Act 2003  
 Protection of Vulnerable Groups (Scotland) Act 2007  
 Public Services Reform (Scotland) Act 2010  
 Self Directed Support (Scotland) Act 2013  
 Social Work (Scotland) Act 1968

### **Community Learning and Development**

- 8.8 To determine and oversee the implementation of the Council's policy in relation to Community Learning and Development.

### **Consideration of Petitions**

- 8.9 The consideration of petitions submitted to the Council in accordance with the Council's petitions procedure and determination of the appropriate action to be taken within the terms of the procedure.

### **Sub-Committees**

- 8.10 The Committee shall appoint the following Sub-Committees:

#### **1. Executive Sub-Committee**

##### Membership

Comprising five members of the Council who are members of the Committee and three non-Council members from the Committee when considering educational matters.

##### Terms of Reference

It shall be delegated to the Sub-Committee:-

To decide any matter which would normally be decided by the Committee, but which, by reason of urgency, requires to be decided prior to the next scheduled meeting of the Committee.

To consider reports by both Education Scotland and Education and Children's Services on individual school performance, pre-school partner providers and community learning, including general aspects of education provision, learning and teaching, the curriculum, and care and welfare;

To consider Care Inspectorate reports in relation to services to children and young people; care home services; fostering and adoption services; support services; housing support; and, by exception, on the day care of children, where Perth and Kinross Council is the registered provider and including partner providers.

#### **2. Attendance Sub-Committee**

Comprising three members of the Council, not being the Convener or a Vice-Convener of the Committee, and one non-Council member.

##### Terms of Reference

It shall be remitted to the Sub-Committee to discharge the functions of the Council under Sections 34-43 of the Education (Scotland) Act 1980 (except the appointment of a person to institute proceedings in terms of Section 43(2)), being the consideration and determination of requests for exemption from school attendance and cases of school attendance

default, as referred to the Sub-Committee by the Executive Director (Education and Children's Services).

### 3. **Review Sub-Committee**

Comprising three members of the Council, not being the Convener or a Vice-Convener of the Committee, and two non-Council members.

#### Terms of Reference

It shall be delegated to the Sub-Committee to consider and decide upon:-

- a. Requests for review of decisions made in terms of Regulation 4(1) or Regulation 10(1) of the School Pupil Records (Scotland) Regulations 1990.
- b. Applications for bursaries, allowances and other financial aid to assist persons to take advantage of educational facilities.
- c. Appeals on safety grounds against the refusal or the withdrawal of education transport.
- d. Appeals against decisions of the Executive Director (Education and Children's Services) in respect of the early admission of children to primary school education.

### 4. **Appointment Panels** (Constituted in terms of The Parental Involvement in Headteacher and Deputy Headteacher Appointments (Scotland) Regulations 2007)

#### Terms of Reference

It shall be remitted to the Panels to interview and appoint persons for the posts of headteacher or deputy headteacher of a school subject to the appropriate Parent Council, where one has been established, to have the opportunity to be involved in the letting process, and to be represented on the Panel.

### 5. **Perth and Kinross Educational Trust Committee**

Comprising in accordance with the terms of The Perth and Kinross Educational Trust Scheme 1964:-

11 members of the Lifelong Learning Committee;  
 1 person from the Church of Scotland Presbytery of Dunkeld;  
 1 person from the Church of Scotland Presbytery of Perth;  
 1 person from the Church of Scotland Presbytery of Auchterarder;  
 2 persons from the Perth and Kinross local association of the Educational Institute of Scotland;

1 person from the Governors of the McLaren Educational Trust from their own number as a life member, to be succeeded by one person to be nominated by the Church of Scotland Presbytery of Stirling and Dunblane, who shall be the Minister of St Kessog's Church, Callander or the Minister of St Bride's Church, Callander; and  
1 person from the Senatus Academicus of the University of St Andrews.

#### Terms of Reference

It shall be delegated to the Committee to undertake the functions of the Council under The Perth and Kinross Educational Trust Scheme 1964.

### **6. Education Appeal Committee**

In terms of Section 28D of the Education (Scotland) Act 1980 and in accordance with Schedule A1 to that Act, the Council shall appoint an Education Appeal Committee.

#### Constitution

The Committee will comprise elected members who are members of the Lifelong Learning Committee, parents of children currently of school age nominated by either Parent Councils or Parent Forums, and persons from the Perth and Kinross area who have experience in education or are acquainted with the educational conditions in the area.

#### Quorum

Any sitting of the Committee shall consist of 3 persons, no more than 2 of whom may be elected members. An elected member shall not be Convener.

#### Terms of Reference

It is remitted to the Committee to consider –,

- a) In terms of the Education (Scotland) Act 1980 as amended, appeals against decisions of the Education Authority:-  
to refuse requests for places in schools;  
to exclude a pupil from school; and
- b) In terms of the Education (Additional Support for Learning) (Scotland) Act 2004 as amended, appeals against decisions of the Education Authority to refuse requests for pupils with additional support needs to attend mainstream schools.

The Committee may either confirm or refuse to confirm the decision of the Education Authority. If the Committee refuses to confirm a decision, the Education Authority must give effect to the Committee's decision.

## **9. LICENSING COMMITTEE**

### **Membership**

9.1 The Licensing Committee shall consist of thirteen members of the Council.

### **Quorum**

9.2 Four members of the Committee shall constitute a quorum.

### **Terms of Reference**

9.3 There shall stand referred to the Licensing Committee the following:-

9.4 To determine applications for licences, permits and registrations in terms of the following Acts and all related subordinate legislation and to exercise discretion in terms of any condition attached to such licences, permits or registrations where the approval of the Council as Licensing Authority is required:

Animal Boarding Establishments Act 1963;  
Breeding of Dogs Act 1973  
Breeding and Sale of Dogs (Welfare) Act 1999;  
Caravan Site and Control of Development Act 1960;  
Cinemas Act 1985;  
Civic Government (Scotland) Act 1982;  
Dangerous Wild Animals Act 1976;  
Deer (Scotland) Act 1996;  
Explosives Act 1875;  
Fireworks Act 2003;  
Gambling Act 2005;  
Game Licences Act 1860  
Game Acts 1831 and 1980;  
Housing (Scotland) Act 2006 Part 5  
Hypnotism Act 1952;  
Marriage (Scotland) Act 2002;  
Pet Animals Act 1951;  
Petroleum Regulation Act 1928 and 1936;  
Petroleum (Consolidation) Act 1928;  
Poisons Act 1972;  
Police, Public Order and Criminal Justice (Scotland) Act 2006  
Riding Establishments Act 1964 and 1970;  
  
Zoo Licensing Act 1981;

9.5 To otherwise exercise the powers and duties of the Council under the Civic Government (Scotland) Act 1982.

9.6 To determine, implement and monitor the Council's policy in relation to those functions referred to above.

- 9.7 To set fees and charges for those licences, registrations and permits referred to above.
- 9.8 To exercise the powers of the Council under Anti-Social Behaviour etc. (Scotland) Act 2004 Part 8.
- 9.9 To grant, refuse, suspend and revoke licences, registrations or approvals where legally appropriate and set conditions in terms of the following and including all associated legislation:

Approval of Premises  
 Animal Health Act 1981  
 Animal Health & Welfare (Scotland) Act 2006  
 Dairy Products (Hygiene) (Scotland) Regulations 1995  
 Egg Products Regulations 1993  
 Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998  
 Meat Products (Hygiene) Regulations 1994  
 Minced Meat and Meat Preparations (Hygiene) Regulations 1995  
 Slaughter of Animals (Scotland) Act 1980  
 Food Safety  
 General Food Hygiene (Butcher's Shops) Amendment (Scotland) Regulations 2000  
 Natural Mineral Water Recognitions  
 Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999  
 Public Health (Scotland) Act 1897  
 Registration of Premises  
 Ice Cream (Scotland) Regulations 1948  
 Safety Certificates  
 Safety of Sports Grounds Act 1975

#### **Byelaws and Management Rules**

- 9.10 To consider the promotion of Byelaws for recommendation to the Council
- 9.11 To consider the creation of Management Rules

## 10. PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

### Membership

- 10.1 The Planning and Development Management Committee shall consist of thirteen members of the Council.

### Quorum

- 10.2 Four members of the Committee shall constitute a quorum.

### Terms of Reference

- 10.3 There shall stand referred to the Planning and Development Management Committee the following:-
- 10.4 In accordance with the [Scheme of Delegation](#) approved by Scottish Ministers in October 2016, to exercise the development management functions of the Council as Planning Authority under the terms of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) Act 2006, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended and all related subordinate legislation, in relation to:-
- (i) applications for planning permission for major developments which are not significantly contrary to the development plan, unless the [Executive Director \(Communities\)](#) intends to refuse solely on the ground of inadequate information to enable determination; and
  - (ii) applications for planning permission for local developments, for listed building consent, conservation area consent, hazardous substances consent and advertisement consent where -
    - (a) the applicant is a member or chief officer of the Council; or
    - (b) the recommendation by the [Executive Director \(Communities\)](#) is for approval, but the proposal is significantly contrary to the development plan; or
    - (c) the recommendation by the [Executive Director \(Communities\)](#) is for approval, but the proposal has attracted six or more \*valid planning objections from a Community Council, household, business address or interest group with multiple letters from the same household, organisation or property counting as one letter of objection; or
    - (d) a similar application at the same site had previously been determined by the Committee and the recommendation is contrary to the previous committee decision.

Note: For the purposes of the above, the [Executive Director \(Communities\)](#) includes any person appointed in writing by them to exercise delegated powers under the Local Government Act (Scotland) 1973.

\**Valid planning objections* means only those submitted within the time in which representations must be made

- 10.5 To deal with applications for certificates for appropriate alternative development under the provisions of the Land Compensation (Scotland) Act 1963 and all related subordinate legislation.
- 10.6 To exercise the functions of the Council as Building Standards Authority under the terms of the Building (Scotland) Act 2003 and all related subordinate legislation.

#### **Sub-Committees**

- 10.7 The Committee shall appoint the following Sub-Committee:

##### **Appeals Sub-Committee**

Comprising three members of the Committee, being the Convener and Vice-Convener and one other member of the Committee

##### Terms of Reference

It shall be delegated to the Sub-Committee to hear and determine appeals against the refusal by the Executive Director (Communities) to grant relaxations of the specified Building Standards.



## **11. COMMON GOOD FUND COMMITTEE(S)**

### **Membership**

- 11.1 The Common Good Fund Committee(s) shall consist of the Convener and one of the Vice-Conveners of the Strategic Policy and Resources Committee and the local members for the appropriate Common Good Fund area. The Committees may, if they so wish, invite a member of the local community council(s) to join the Committee as advisory non-voting members.

### **Quorum**

- 11.2 One-quarter of the voting members of the Committee present at the meeting will constitute a quorum.

### **Terms of Reference**

- 11.3 There shall stand referred to the Common Good Fund Committee(s) the following functions:-

To determine all matters involving the disbursement of Common Good Fund monies including setting the annual budget and approving the Audited Annual Accounts, and

To determine all matters relating to property or land or other assets held by the Common Good Funds.

## **12. LOCAL REVIEW BODY**

### **Membership**

- 12.1 The Local Review Body will consist of three elected members drawn from a panel of elected members of the Planning and Development Management Committee; and one substitute member from that panel for each meeting.

### **Quorum**

- 12.2 Three members of the Local Review Body will constitute a quorum.

### **Terms of Reference**

- 12.3 To consider and determine applications for review of decisions made by officers under delegated powers in respect of planning applications for local developments in accordance with Section 43(a)(8) of the Town and Country Planning (Scotland) Act 1997 as amended and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
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### **13. PRE-DETERMINATION COMMITTEE**

#### **Membership**

- 13.1 The Pre-Determination Committee shall consist of all elected members of the Council.

#### **Quorum**

- 13.2 Ten members of the Council will constitute a quorum.

#### **Terms of Reference**

- 13.3 To hold pre-determination hearings prior to determination of the application by full Council in terms of Section 38A of the Town and Country Planning (Scotland) Act 1997 as amended and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

## 14. PERTH AND KINROSS INTEGRATION JOINT BOARD

### Constitution

- 14.1 Perth and Kinross Integration Joint Board is a statutory body constituted in terms of The Public Bodies (Scotland) (Integration Joint Board Establishment) (Scotland) Order 2015.
- 14.2 The functions delegated by the Council to the Board, as well as its membership, chairperson, quorum, and powers are more specifically set out in the [Perth and Kinross Integration Scheme](#), being an agreement between Perth and Kinross Council and Tayside NHS Board approved by Scottish Ministers in March 2015.

### Membership

- 14.3 Voting membership comprises four persons nominated by the Council and four persons appointed by the NHS Board, each of whom may have a proxy.

### Chair

- 14.4 The Chair shall rotate every two years between a Chair nominated by the Council and one nominated by the NHS Board. The Vice Chair is nominated from whichever of the Council or NHS nominees who is not then the Chair.

### Quorum

- 14.5 At least four voting members of the Board with both Council and NHS Board members present.

### Delegated Powers

- 14.6 Perth & Kinross Integration Joint Board has fully delegated powers to implement its functions.

#### **Functions referred to the Integrated Joint Board as set out in the Integration Scheme**

- Social work services for adults and older people
- Services and support for adults with physical disabilities
- Assessment services
- Intake services
- Services and support for adults with learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Support services
- Health improvement services
- Housing support services

**Functions delegated to the Integrated Joint Board as set out in the Integration Scheme**

- National Assistance Act 1948
- The Disabled Persons (Employment) Act 1958
- The Social Work (Scotland) Act 1968
- The Local Government and Planning (Scotland) Act 1982
- Disabled Persons (Services, Consultation and Representation) Act 1986
- The Adults with Incapacity (Scotland) Act 2000
- The Housing (Scotland) Act 2001
- The Community Care and Health (Scotland) Act 2002
- The Mental Health (Care and Treatment) (Scotland) Act 2003
- The Housing (Scotland) Act 2006
- The Adult Support and Protection (Scotland) Act 2007
- Social Care (Self-directed Support) (Scotland) Act 2013

### SECTION 3 - DELEGATION TO OFFICIALS

#### (AS REQUIRED BY SECTION 50G (2) OF THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973)

#### 15. GENERAL PROVISIONS

- 15.1 Where statutory powers are delegated to the Chief Executive, Executive Director, Chief Operating Officer or any other officer, those powers are to be exercised (i) subject to the Council or the relevant Committee retaining overall control of general policy matters and (ii) subject to the power contained in Section 56(4) of the Local Government (Scotland) Act 1973 allowing the Council or the relevant Committee to exercise those statutory powers.
- 15.2 The Chief Executive, Executive Directors, Chief Operating Officer or any other officer possessing delegated powers in terms of this Scheme may, unless otherwise stated, authorise any other officer to exercise that delegated power. A record should be kept of such further delegation.
- 15.3 The Chief Executive, any Executive Director or the Chief Operating Officer are authorised to take, or make arrangements for, any action required to implement any decision of the Council, its Committees or any decision taken in the exercise of delegated powers.
- 15.4 The Chief Executive, any Executive Director or the Chief Operating Officer are authorised to take all necessary actions in order to effect the delivery of their services and the management of their staff.
- 15.5 The Chief Executive, any Executive Director or the Chief Operating Officer are authorised to take such measures as may be required in emergency situations, subject to reporting to Council or the relevant Committee as soon as possible on any matters for which approval would normally be necessary.
- 15.6 In exercising the authority delegated to them, officers must act in accordance with the policies and procedures of the Council, its Committees and Sub-Committees.
- 15.7 The Chief Executive, any Executive Director or the Chief Operating Officer are authorised to enter into contracts on behalf of the Council in accordance with the Council's Contract Rules and Contract & Procurement Guidance.
- 15.8 The Chief Executive, any Executive Director or the Chief Operating Officer, in consultation with the Head of Finance may determine ex-gratia payments in respect of claims against the Council of up to **£10,000**.

- 15.9 The Chief Executive, any Executive Director or any Depute Director, and the Chief Operating Officer may in accordance with Council's recruitment policies and procedures, appoint Heads of Service or equivalent and all employees below the level of Head of Service or equivalent.
- 15.10 The Chief Executive, any Executive Director or the Chief Operating Officer may amend the establishment of their Service in respect of the number and grading of posts, provided the Head of Finance and the Corporate Human Resources Manager have been consulted.
- 15.11 The Chief Executive, any Executive Director or the Chief Operating Officer may attend or may authorise any employee in their Service to attend conferences, meetings (including appropriate professional associations) or undertake visits, both within and outwith the United Kingdom relating to the duties of that employee.
- 15.12 The Chief Executive may, in consultation with the Head of Finance and the Corporate Human Resources Manager, approve applications to leave the employment of the Council on grounds of redundancy and/or early retirement by any employee in their Service (with the exception of Chief Officers), where a saving will be generated.
- 15.13 The Chief Executive, any Executive Director or the Chief Operating Officer may approve requests to work under flexible retirement provisions where there is no cost to the pension fund.
- 15.14 The Chief Executive, any Executive Director or the Chief Operating Officer may declare any property held by their Service surplus to operational requirements.

## 16. CHIEF EXECUTIVE

16.1 The Chief Executive is authorised:

- To give a direction in special circumstances that any official shall not exercise a delegated function, or to exercise that delegated function, always subject to reporting to the next meeting of the Council or the relevant Committee.
- To act as Returning Officer / Counting Officer for all elections / referenda. The Chief Accountant is the Depute Returning Officer.
- To suspend the Chief Operating Officer or any Executive Director from duty, subject to any appropriate statutory provisions and to reporting the suspension to the Strategic Policy and Resources Committee as soon as practicable.
- In consultation with the Provost, to grant civic hospitality up to a maximum cost of £1,000.

## 17. ROLE OF DEPUTE CHIEF EXECUTIVE

17.1 The Executive Director (Communities) and the Executive Director (Education and Children's Services) will deputise for the Chief Executive as may be required from time to time in their absence. When doing so, they may use the title of Depute Chief Executive.

17.2 Should at any point there be extended absence or unavailability of the substantive Chief Executive, the Executive Director (Communities) will become the Interim Chief Executive.

## ~~17. DEPUTE CHIEF EXECUTIVE~~

~~17.1 In the absence of the Chief Executive, the Depute Chief Executive is authorised to do anything delegated to the Chief Executive other than acting as Returning Officer for all elections and referenda.~~

### **Development Planning**

- ~~• In accordance with the Scheme of Delegation approved by Scottish Ministers in October 2016 to exercise the functions of the Council as Planning Authority in terms of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) Act 2006, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended and all related subordinate legislation.~~



- ◆ ~~Nothing in the above clauses shall prohibit the Depute Chief Executive from approving any planning application for a development which already has a valid planning consent where the Development Plan and land use circumstances are unchanged from the time of the grant of planning permission.~~

### **Building Standards**

- To exercise functions of the Council in terms of the Building (Scotland) Act 2003 and all related subordinate legislation.
- To determine applications for licences in terms of the following and all related subordinate legislation:
  - Raised Platforms (Civic Government (Scotland) Act 1982)
  - Safety Certificates (Safety of Sports Grounds Act 1975)
- To issue prohibition notices in terms of Section 10 of the Safety of Sports Grounds Act 1975 as amended by Section 23 of the Fire Safety and Safety of Places of Sport Act 1987 restricting the admission of spectators to a sport ground, or any part of it, if that admission would involve a serious risk to spectators.

### **Economic Development**

- To exercise the functions of the Council in terms of Section 154 of the Local Government (Scotland) Act 1973 and all relevant subordinate legislation in relation to Perth Harbour.
- To approve
  - (i) event funding applications up to £10,000
  - (ii) employability initiatives and business grant applications up to £20,000
  - (iii) business loan applications up to £50,000

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## 18. CHIEF OPERATING OFFICER

18.1 The Chief Operating Officer is authorised:-

### Procurement

- To exercise the functions on behalf of the Council in relation to the operation of the Tayside Procurement Consortium and Council procurement functions, including tender award report.

### Pensions

- In relation to the Local Government Pension Scheme (Benefit, Membership and Contributions) (Scotland) Regulations 2008, to determine pension discretions other than those contained in [Report 15/400](#).

### Information Risk

- To be designated as the Senior Information Risk Officer

### ~~Arts and Cultural Services / Sport and Leisure Services / Library and Archive Services~~

- ~~• To exercise the functions of the Council in terms of the following Acts and all related subordinate legislation:-~~

~~Public Libraries Consolidation (Scotland) Act 1987  
Local Government (Scotland) Act 1973  
Local Government and Planning (Scotland) Act 1982~~

### Property

- To act as the Council's agent in all property matters.
- To dispose of any property or right in property valued by the Head of Property at £100,000 or less either by negotiation or advertisement and subject to section 74 of the Local Government (Scotland) Act 1974 (the duty to obtain best reasonable consideration), as amended by Section 11 of the Local Government in Scotland Act 2003 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
- To acquire any property or right in property in respect of which there is a relevant project or programme and budget provision and instructions have been received from the relevant Executive Director.
- To manage the Council's leasehold portfolio including, without prejudice to the generality, agreeing tenancies, rentals, rent reviews, assignations, sub-tenancies, terminations and renewals.

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### **Energy Management and Conservation**

- To undertake carbon trading in consultation with the Head of Finance and the Head of Legal and Governance Services in accordance with the Carbon Reduction Commitment Energy Efficiency Scheme.

### Building Standards

To exercise functions of the Council in terms of the Building (Scotland) Act 2003 and all related subordinate legislation.

To determine applications for licences in terms of the following and all related subordinate legislation:-

Raised Platforms (Civic Government (Scotland) Act 1982)  
Safety Certificates (Safety of Sports Grounds Act 1975)

To issue prohibition notices in terms of Section 10 of the Safety of Sports Grounds Act 1975 as amended by Section 23 of the Fire Safety and Safety of Places of Sport Act 1987 restricting the admission of spectators to a sport ground, or any part of it, if that admission would involve a serious risk to spectators.

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**19. HEAD OF CULTURE AND COMMUNITY SERVICES**

19.1 The Head of Culture and Community Services is authorised:

**Community Councils**

- To exercise the functions of the Council in relation to Community Councils in terms of the Local Government (Scotland) Act 1973 and all related subordinate legislation.

## 20. HEAD OF LEGAL AND GOVERNANCE SERVICES

20.1 The Head of Legal and Governance Services is authorised:

### General

- To make orders for the prohibition, restriction etc. of traffic in terms of the Road Traffic Regulation Act 1984 and the Roads (Scotland) Act 1984 or any amending or superseding legislation.
- To make orders for the temporary prohibition or restriction of traffic in terms of Section 14(1) of the Road Traffic Regulation Act 1984 and Section 62 of the Roads (Scotland) Act 1984 or any amending or superseding legislation.
- To institute, defend or appear in any legal proceedings or any inquiry held by or on behalf of any minister or public body under any enactment (including, for the avoidance of doubt, proceedings before any statutory tribunal, board or authority).
- To execute, publish or serve on any person or body, any notice, direction, order, licence, summons, writ or other document which the Council is required or authorised to execute, publish or serve under any Act or any regulation or order made thereunder.
- To receive notifications of public processions and to either approve or make orders imposing conditions on the holding of such processions under Section 63(1) of the Civic Government (Scotland) Act 1982.
- To exercise the functions of the Council in terms of the following Acts and all relevant subordinate legislation:

Regulation of Investigatory Powers Act 2000

Regulation of Investigatory Powers (Scotland) Act 2000

### Licensing Under the Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006

- To exercise the functions of the Council under the above Acts except:-
  - (i) The approval of an application for a licence or variation of the terms of a licence where an objection or unfavourable representation has been received in relation to the application, and
  - (ii) The suspension of a licence under paragraph 11 of Schedule 1 of the 1982 Act.

- (iii) The revocation of a house in Multiple-Occupation license under Section 139 of the 2006 Act.

#### **Permits under the Gambling Act 2005**

- To approve applications for permits in terms of the Gambling Act 2005.

#### **Byelaws and Management Rules**

- To maintain (a) the Register of Byelaws and (b) the Register of Management Rules.
- To initiate reviews of current Byelaws and Management Rules.

#### **Anti-Social Behaviour etc. (Scotland) Act 2004 – Private Landlord Registration**

- To register landlords where there are no adverse reports and to issue rent penalty notices under Section 94 and notice of relocation under Section 95.

#### **Children's Hearings Scotland**

- To exercise the functions of the Council in respect of the arrangements for the appointment of legal representatives to children under the Children's Hearings (Legal Representation) (Scotland) Rules 2002 and Children's Hearings (Scotland) Act 2011.
- To exercise the functions of the Council in respect of the relevant area of the Tayside Area Support Team and the Panel or Panels appointed under the Children's Hearings (Scotland) Act 2011, including arrangements for training of relevant members of said Area Support Team and Panel or Panels.

#### **Registration of Births, Deaths, Marriages, Civil Partnerships and Other Life Events**

- To exercise the functions of the Council as local Registration Authority for the purposes of the Registration of Births, Deaths and Marriages (Scotland) Act 1965, Marriage (Scotland) Act 1977, Civil Partnership Act 2004 and the Local Electoral Administration and Registration Services (Scotland) Act 2006, and all related subordinate legislation.

- 20.2 In the absence of the Head of Legal and Governance Services, Legal Managers shall be authorised to do anything delegated to the Head of Legal and Governance Services.



**21. HEAD OF FINANCE**

21.1 The Head of Finance is authorised:

**Finance**

- To make the necessary arrangements in accordance with the CIPFA Code of Practice on Treasury Management for duly authorised borrowing and lending in terms of Schedule 3 to the Local Government (Scotland) Act 1975.

## 22. EXECUTIVE DIRECTOR (EDUCATION AND CHILDREN'S SERVICES)

22.1 The Executive Director (Education and Children's Services) is authorised:

### Children's Services

- To carry out the functions of the Council to enable it to fulfil its duties in relation to child care in terms of the following Acts and all related subordinate legislation:-

Adoption (Intercountry Aspects) Act 1999  
 Adoption and Children (Scotland) Act 2007  
 Adults with Incapacity (Scotland) Act 2000  
 Anti-Social Behaviour etc. (Scotland) Act 2004  
 Carers (Recognition and Services) Act 1995  
 Children (Scotland) Act 1995  
 Children Act 1975  
 Children and Young People (Scotland) Act 2014  
 Children and Young Persons (Scotland) Act 1937  
 Children's Hearings (Scotland) Act 2011  
 Chronically Sick and Disabled Persons Act 1970  
 Chronically Sick and Disabled Persons Act 1972  
 Community Care (Direct Payments) Act 1996  
 Immigration and Asylum Act 1999  
 Disabled Persons (Services, Consultation and Representation) Act 1986  
 Foster Children (Scotland) Act 1984  
 Mental Health (Care and Treatment) (Scotland) Act 2003  
 Nationality, Immigration and Asylum Act 2002  
 Social Work (Scotland) Act 1968  
 Education (Additional Support for Learning) (Scotland) Act 2004  
 Protection of Children (Scotland) Act 2003  
 Protection of Vulnerable Groups (Scotland) Act 2007  
 Public Services Reform (Scotland) Act 2010

- To act as Agency Decision Maker in connection with the approval, amendment or rejection of recommendations made by the Fostering and Permanence Panel.
- Support Assistance for Young People Leaving Care (Scotland) Regulations 2003
  - (i) To provide the minimum level of Financial Support to young people leaving care at age 16.
  - (ii) Approve individual payments in consultation with Convener and Vice-Conveners.

### Schools Education

- To carry out the functions of the Council as Education Authority in terms of the Acts set out at paragraph (i) below and all related

subordinate legislation, subject to the qualification in paragraph (ii) below and under the exception of the specific provisions of the Education (Scotland) Act 1980 set out in paragraph (iii):-

- (i) Children and Young Persons (Scotland) Act 1937  
Children (Scotland) Act 1995  
Education (Additional Support for Learning) (Scotland) Act 2004  
Education (Scotland) Act 1980  
Education (Scotland) Act 2016  
Road Traffic Regulation Act 1984  
Scottish Schools (Parental Involvement) Act 2006  
Self-Governing Schools etc. (Scotland) Act 1989  
Standards in Scotland's Schools etc. Act 2000

- (ii) In respect of exclusions of pupils, the power to exclude may be exercised by the Head Teacher and in the absence of the Head Teacher by a Depute Head Teacher. Where neither Head Teacher nor the Depute Head Teacher is available to consider a possible exclusion, a Head of Education or a Service Manager, School Improvement Services, may exercise the power to exclude.

In respect of a referral that a pupil be removed from the school register, only a Head of Education may make such a decision.

- (iii) Section 20 - Acquisition of land and execution of works  
Section 22 - Discontinuance and moves of educational establishments  
Section 22A - Any proposals requiring consultation under this Section  
Section 79 - Receiving and administering bequests  
Section 105 - Schemes for management of endowments

- To determine requests for lets, including free lets or lets at reduced charge of educational facilities.
- To determine applications for the employment of children in terms of the Perth and Kinross Council Bye-laws on the Employment of Children 1999.
- To determine applications for licences in respect of children taking part in public performances in terms of the Children (Performances) Regulations 1968.
- To approve requests from teachers who meet the criteria set by SPPA wind down and to take phased retirement, where there are no costs to the Council.

### **Criminal Justice**

- To carry out the functions of the Council in relation to criminal justice services in terms of the following Acts and all related subordinate legislation:-  
  
Crime and Disorder Act 1998  
Criminal Justice (Scotland) Act 2003  
Criminal Procedure (Scotland) Act 1995  
Management of Offenders (Scotland) Act 2005  
Mental Health (Care and Treatment) (Scotland) Act 2003  
Prisons (Scotland) Act 1993  
Prisoners and Criminal Proceedings (Scotland) Act 1993  
Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005  
Sexual Offences Act 2003  
Sexual Offences (Scotland) Act 2009  
Social Work (Scotland) Act 1968
- To accept or reject material offered as donations, loans, sponsorship or bequests in respect of Education and Children's Services.

## 23. EXECUTIVE DIRECTOR (~~COMMUNITIES~~)~~HOUSING AND ENVIRONMENT~~)

23.1 The Executive Director (~~Communities~~) is authorised:-

### Housing

- To exercise the functions of the Council in terms of the following Acts and all related subordinate legislation:-
  - Anti-Social Behaviour etc. (Scotland) Act 2004
  - Council Tax (General) Regulations 1992
  - Crime & Disorder Act (Chapter ii), and Anti-Social Behaviour etc. (Scotland) Act 2004
  - Housing Act 1988
  - Housing Benefit (General) Regulations 1987
  - Housing (Scotland) Acts 1987, 1988, 2001, 2006 (with the exception of Part 5 Houses in Multiple Occupation) and 2010
  - Housing (Scotland) Act 2014
  - Land Compensation (Scotland) Act 1973
  - Leasehold Reform Housing and Urban Development Act 1993
  - Local Government (Scotland) Act 1975
  - Local Government Finance Act 1992,
  - Local Government etc. (Scotland) Act 1994
  - Regulation of Investigatory Powers Act 2000
- To implement, determine and vary conditions of let for Council house tenants, including, eviction, where appropriate.
- To allocate Council houses in accordance with the scheme approved by the Council.
- To approve future payments from the Council Tax Income on Second Homes Earmarked Reserve, in accordance with the policy for the use of the fund detailed in Report 08/131 (and previously approved by Housing and Health Committee on 23 February 2005) (Art. 135) (Report No. 05/108), up to a limit of £100,000.
- To award Rates relief in accordance with legislation and the Council's agreed discretionary policies.
- To act as the responsible person in terms of the Property Factors (Scotland) 2011 as approved by the Housing and Health Committee on 31 October 2012 (Art. 518) ([Report 12/481](#)).

### Community Safety

- To exercise the functions of the Council in relation to the Local Licensing Forum in terms of the Licensing (Scotland) Act 2005 and all related subordinate legislation.

### Arts and Cultural Services / Sport and Leisure Services / Library and Archive Services

- To exercise the functions of the Council in terms of the following Acts and all related subordinate legislation:-

Public Libraries Consolidation (Scotland) Act 1887

Local Government (Scotland) Act 1973

Local Government and Planning (Scotland) Act 1982

### **Environment**

- To exercise the Council's functions as contained in the following Acts and all related subordinate legislation:-

Agriculture Act 1970;

Animal Boarding Establishments Act 1963;

Animal Health Act 1981;

Animal Health and Welfare (Scotland) Act 2006;

Anti-social Behaviour Act 2004 (ASP 8);

Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999;

Burial Grounds (Scotland) Act 1855 and Amendment Acts 1881 and 1886;

Caravan Site and Control of Development Act 1960;

Carbon Reduction Commitment Energy Efficiency Scheme Order 2010;

Cinemas Act 1985;

Civic Government (Scotland) Act 1982 (Section 45);

Climate Change Scotland Act 2009;

Consumer Credit Act 1974;

Consumer, Estate Agents and Redress Act 2007;

Consumer Protection Act 1987;

Control of Pollution Act 1974;

Cremation Act 1902;

Dangerous Wild Animals Act 1976;

Deer (Scotland) Act 1996;

Dog Fouling (Scotland) Act 2003;

Environment Act 1995;

Environmental Assessment (Scotland) Act 2005;

Environmental Protection Act 1990;

European Communities Act 1972;

Explosive Act 1875;

Fair Trading Act 1973;

Food Safety Act 1990;

Game Licenses Act 1860 and the Games Acts 1831 and 1980);

Health and Safety at Work Etc. Act 1974;

High Hedges (Scotland) Act 2013

Housing Acts 1969 – 2001;

Housing (Scotland) Act 2006 Part 3 and Associated Prescribed Documents Regulations;  
 Local Government (Scotland) Acts 1929-1981;  
 Local Government in Scotland Act 2003;  
 Local Government and Planning (Scotland) Act 1982;  
 National Assistance Act 1948 (Burials and Cremation Only);  
 Nature Conservation (Scotland) Act 2004;  
 Performing Animals (Regulation) Act 1925;  
 Pet Animals Act 1951;  
 Petroleum Regulation Act 1928 and 1936;  
 Petroleum (Consolidation) Act 1928;  
 Poisons Act 1972;  
 Public Health (Scotland) Act 1897;  
 Refuse Disposal Amenity Act 1978;  
 Riding Establishments Act 1964 and 1970;  
 Sewerage (Scotland) Act 1968;  
 Theatres Act 1968;  
 The Tobacco and Primary Medical Services (Scotland) Act 2010;  
 Town and Country Planning (Scotland) Act 1997 except in so far as provided for in relation to section 43A below;  
 Trade Descriptions Act 1968;  
 Water Environment and Water Services Act 2003;  
 Water (Scotland) Act 1980;  
 Weights and Measures Act 1985;  
 Zoo Licensing Act 1981.

- To grant conditionally or otherwise, refuse or suspend where legally appropriate, and to designate officers to grant conditionally or otherwise, refuse or suspend where legally appropriate, licences, registrations, recognitions or approvals in terms of the legislation referred to above.
- To administer the Council's Housing Grant Scheme in terms of the Housing (Scotland) Act 1987 and the Civic Government (Scotland) Act 1982.
- To exercise the functions of the Council in terms Part 1 of the Smoking Health and Social Care (Scotland) Act 2005 and all related subordinate legislation:-
  - (i) The consideration of representations and the hearing of appeals relative to Part 1 of the Smoking, Health and Social Care (Scotland) Act 2005 be delegated to the Executive Director (Housing and Environment) and the Head of Environmental and Consumer Services.
  - (ii) Arrangements for administration of Fixed Penalties be delegated to the Executive Director (Housing and Environment).

- To negotiate with potential partners to provide toilet facilities for the public in connection with the Perth and Kinross Comfort Scheme and enter into Minutes of Agreement therefore.
- To set the charges for the range of recycling and composting skip hire services to be offered.
- To appoint competent persons in terms of Part 1 of the Public Health (Scotland) Act 2008, and to maintain a list of such competent persons.

### **Countryside**

- To exercise the functions of the Council in terms of the Countryside (Scotland) Act 1967 and all related subordinate legislation, but with the following exceptions:  
  
 Section 24 - Acquisition of land for public access  
 Section 31 - Creation of public paths by compulsion  
 Sections 34 -38 - Closure and diversion of public paths  
 Section 54 - Byelaws
- To exercise functions of the Council in terms of the Land Reform (Scotland) Act 2003 and all related subordinate legislation, but with the following exceptions:  
  
 Section 11 - Power to exempt land from the right of access for 6 days or longer  
 Section 12 – Making Byelaws  
 Section 16 - Acquisition of land to enable or facilitate access rights  
 Section 18 - Core paths plan: further procedure - giving notice of the plan, formal consultation, adopting it etc.  
 Section 22 - Path orders  
 Section 25 - Appointments to local access forum
- To agree terms and conditions for access agreements to the countryside provided that any consideration, exclusive of fees and costs, does not exceed £5,000.

### **Roads and Traffic**

- To exercise the functions of the Council as roads authority in terms of the Roads (Scotland) Act 1984 and all related subordinate legislation, but with the following exceptions –
  - (i) Part III where the applicant objects to proposed conditions in respect of consents
  - (ii) Section 97 - Permitting trading on A class roads.



- The Executive Director shall have the power to promote and propose and where no objections are raised, confirm roads orders in terms of the Road Traffic Regulation Act 1984 and any subsequent legislation regulating the use of the Perth and Kinross Council roads network.
- To exercise the functions of the Council in terms of the Road Traffic Acts 1988 and 1991 and all related subordinate legislation.
- To exercise the functions of the Council in terms of the New Roads and Street Works Act 1991 and all related subordinate legislation.
- To exercise the functions under the Transport (Scotland) Act 2005.
- To carry out the naming and numbering of streets in terms of the Civic Government (Scotland) Act 1982.

#### **Public Transport**

- To exercise the functions of the Council in terms of the Transport Act 1985 and the Transport (Scotland) Act 2001, and all related subordinate legislation.
- To carry out the management and administration of the day to day operation of school and special education transport on behalf of the Executive Director (Education and Children's Services), and client transport on behalf of the Chief Officer of the Health and Social Care Partnership, including the specification, tendering and award of conveyance contracts.

#### **Flood Prevention**

- To exercise the functions of the Council in terms of the following and all related subordinate legislation:  
Flood Prevention (Scotland) Act 1961  
Flood Risk Management (Scotland) Act 2009

#### **Reservoirs**

- To exercise the functions of the Council in terms of the Reservoirs Act 1975, and all related subordinate legislation.

#### **Public Order**

- To make Orders under Section 14A of the Public Order Act 1986.

### **Affordable Housing Developer Contributions**

- To determine the tenure of affordable housing required in accordance with the decision of the Enterprise and Infrastructure Committee on 17 January 2007.
- In consultation with the Convener of the Environment and Infrastructure Committee, to approve grants of up to a maximum of £200,000 per site to meet the need for affordable housing as agreed by the Enterprise and Infrastructure Committee on 17 January 2007.
- In consultation with relevant local members and the Conveners of the Environment and Infrastructure Committee and the Housing and Communities Committee:-
  - (i) to agree to proposals from developers to build up affordable housing credits on particular sites;
  - (ii) to agree to the use of accrued affordable credits to offset the affordable requirements on other sites within the same housing market area; and
  - (iii) to extend the period for which credits can be held, up to a maximum period of 10 years.

### **Financial Assistance**

- To determine requests between £2,001 and £50,000 under the Financial Assistance to the Voluntary Sector Revenue Budget and the Community Environment Challenge Fund.
- To determine requests for funding from the Auchterarder Community Challenge Fund up to a maximum of £50,000.

### **Development Planning**

- In accordance with the Scheme of Delegation approved by Scottish Ministers in October 2016 to exercise the functions of the Council as Planning Authority in terms of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) Act 2006, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended and all related subordinate legislation.
- Nothing in the above clauses shall prohibit the Depute Chief Executive from approving any planning application for a development which already has a valid planning consent where the Development Plan and land use circumstances are unchanged from the time of the grant of planning permission.

### **Building Standards**

- To exercise functions of the Council in terms of the Building (Scotland) Act 2003 and all related subordinate legislation.
- To determine applications for licences in terms of the following and all related subordinate legislation:-  
  
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Safety Certificates (Safety of Sports Grounds Act 1975)
- To issue prohibition notices in terms of Section 10 of the Safety of Sports Grounds Act 1975 as amended by Section 23 of the Fire Safety and Safety of Places of Sport Act 1987 restricting the admission of spectators to a sport ground, or any part of it, if that admission would involve a serious risk to spectators.

### **Economic Development**

- To exercise the functions of the Council in terms of Section 154 of the Local Government (Scotland) Act 1973 and all relevant subordinate legislation in relation to Perth Harbour.
- To approve –
  - (i) event funding applications up to £10,000
  - (ii) employability initiatives and business grant applications up to £20,000
  - (iii) business loan applications up to £50,000

### **Property**

- ~~To act as the Council's agent in all property matters.~~
- ~~To dispose of any property or right in property valued by the Head of Property at £100,000 or less either by negotiation or advertisement and subject to section 74 of the Local Government (Scotland) Act 1974 (the duty to obtain best reasonable consideration), as amended by Section 44 of the Local Government in Scotland Act 2003 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.~~
- ~~To acquire any property or right in property in respect of which there is a relevant project or programme and budget provision and instructions have been received from the relevant Executive Director.~~

- ~~To manage the Council's leasehold portfolio including, without prejudice to the generality, agreeing tenancies, rentals, rent reviews, assignments, sub tenancies, terminations and renewals.~~

#### ~~Energy Management and Conservation~~

- ~~To undertake carbon trading in consultation with the Head of Finance and the Head of Legal and Governance Services in accordance with the Carbon Reduction Commitment Energy Efficiency Scheme.~~

**24. CHIEF OFFICER / DIRECTOR – INTEGRATED HEALTH AND SOCIAL CARE**

- 24.1 The Perth and Kinross Integration Joint Board is obliged to appoint a Chief Officer / Director – Integrated Health and Social Care in accordance with Section 10 of the Public Bodies (Joint Working) (Scotland) Act 2014.
- 24.2 The specific provisions relating to the role are as set out in Section 7 of the Perth and Kinross Integration Scheme.

## 25. STATUTORY APPOINTMENTS OF OFFICERS

25.1 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. The statutory appointments agreed by the Council are as follows:

<b><u>STATUTORY PROVISION</u></b>	<b><u>PURPOSE / ROLE</u></b>	<b><u>OFFICER</u></b>
<b>Social Work (Scotland) Act 1968</b>		
s.3	Chief Officer of Social Work	Depute Director (Education and Children's Services)
<b>Local Government (Scotland) Act 1973</b>		
s.33A	Proper Officer for various purposes in connection with Councillors' declaration of acceptance of office	Chief Executive Head of Legal & Governance Services
s.34	Proper Officer for receipt of Councillors' resignations	Chief Executive Head of Legal and Governance Services
s.43 and Sch.7	Proper Officer for various purposes in connection with meetings and proceedings of the Council, Committees and Sub-Committees	Head of Legal & Governance Services
ss.50A-50K	Proper Officer for various purposes in connection with access to meetings and documents of the Council, Committees and Sub-Committees	Head of Legal & Governance Services
s.92	Proper Officer for dealing with the transfer of securities	Head of Finance
s.95	Proper Officer for the administration of the Council's financial affairs	Head of Finance

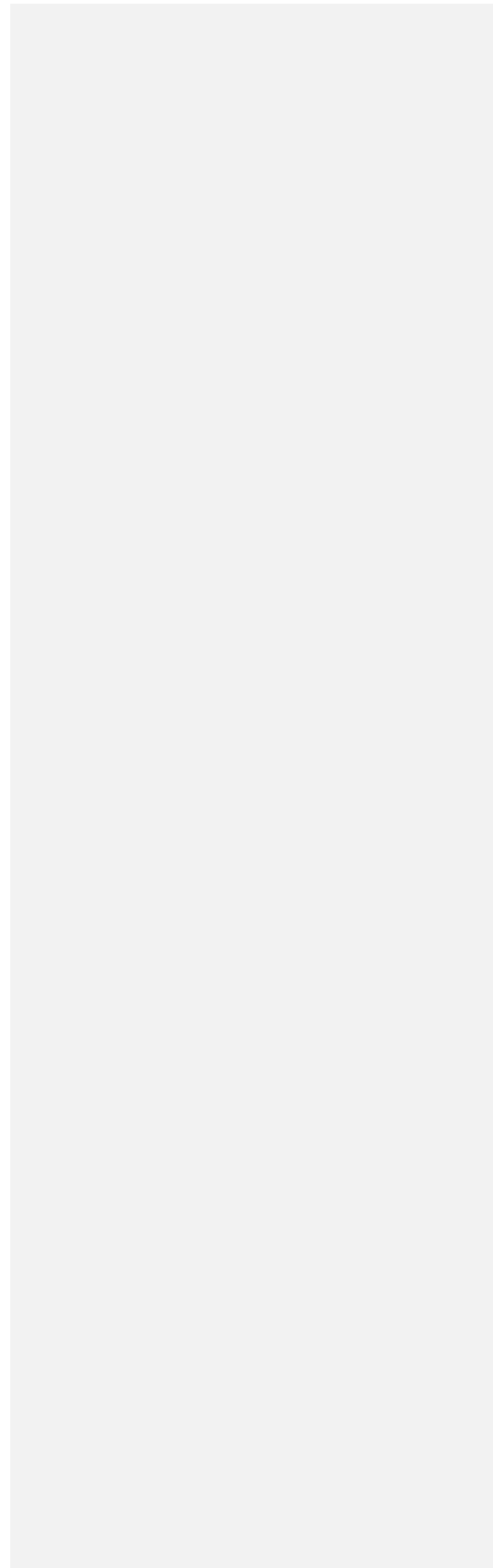
<b><u>STATUTORY PROVISION</u></b>	<b><u>PURPOSE / ROLE</u></b>	<b><u>OFFICER</u></b>
s.190	Proper Officer for service of legal proceedings, notices, etc on the Council	Chief Executive Head of Legal & Governance Services Legal Managers
s.191	Proper Officer in respect of claims on behalf of the Council in sequestrations and liquidations	Head of Legal & Governance Services Legal Managers
s.192	Proper Officer for services of notices etc by Local Authority	Head of Legal and Governance Services Legal Managers
s.192-193	Proper Officer for the purpose of the execution of Notices of Proceedings under the Housing (Scotland) Act 2001	Executive Director (Communities)Housing and Environment)
s.192-193	Proper Officer for the purpose of signing tenancy agreements under the Housing (Scotland) Act 2001	Executive Director (Communities)Housing and Environment) Head of Housing Area Housing Managers
s.193-194	Proper Officer in respect of authentication of documents and certifying deeds	Head of Legal & Governance Services Legal Managers
s.197	Proper Officers in respect of arrangements for the inspection and depositing of documents	Chief Executive Head of Legal & Governance Services Democratic Services Manager
ss.202-204	Proper Officer for various purposes in connection with byelaws	Head of Legal & Governance Services
s.206	Proper Officer in respect of the keeping of a register of persons	Chief Executive

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the Council's area

<b><u>STATUTORY PROVISION</u></b>	<b><u>PURPOSE / ROLE</u></b>	<b><u>OFFICER</u></b>
<b>Licensing (Scotland) Act 2005</b>		
Section 22	Competent Objector / Representations to the Licensing Board	Chief Executive and/or Executive Director (Education and Children's Services) and/or <del>Executive</del> Director <del>(Communities)Housing &amp; Environment)</del>
Section 36	Applying for a Review of a Premises Licence to the Licensing Board	Chief Executive and/or Executive Director (Education and Children's Services) and/or <del>Executive</del> Director <del>(Communities)Housing &amp; Environment)</del>
Para 8, Schedule 1	Clerk to the Licensing Board	Head of Legal & Governance Services
<b>Civic Government (Scotland) Act 1982</b>		
s.113	Proper Officer in respect of evidence of management rules	Head of Legal & Governance Services Legal Managers
<b>Representation of the People Act 1983</b>		
s.25 and s.41	Returning Officer	Chief Executive
<b>Local Government and Housing Act 1989</b>		
s.2	Proper Officer in respect of lists of politically restricted posts	Corporate Human Resources Manager
s.4	Head of Paid Service	Chief Executive
s.5 and 5A	Monitoring Officer	Head of Legal & Governance Services
<b>Requirements of Writing (Scotland) Act 1995 Para 4, Schedule 2</b>	Proper Officer in respect of execution of Deeds	Chief Executive Head of Legal & Governance Services



<b>Local Government (Contracts) Act 1997</b> Section 3	and use of the Council's seal	Legal Managers
	Certification of contracts	Head of Legal and Governance Services Legal Managers
<b><u>STATUTORY PROVISION</u></b>	<b><u>PURPOSE / ROLE</u></b>	<b><u>OFFICER</u></b>
<b>Town and Country Planning (Scotland) Act 1997</b> S43A	Delegated authority in respect of planning applications for local development	<del>Executive Director (Communities) Deputy Chief Executive</del> ; Head of Planning and Development; Development Management and Building Standards Service Manager; Development Management Team Leaders; and (for certain applications only) Development Management Planning Officers who have membership of the Royal Town Planning Institute and 2 years post-qualifying experience
<b>Ethical Standards in Public Life etc. (Scotland) Act 2000 s.7 and The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003</b>	Proper Officer for all purposes in connection with registration of Members' interests and other related purposes under the Councillors' Code of Conduct	Head of Legal & Governance Services
<b>Article 37 of REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b> <b>Section 69 of the Data Protection Act 2018</b>	Data Protection Officer	Information Compliance Manager



## 26. DUTIES OF STATUTORY OFFICERS

### HEAD OF PAID SERVICE

- 26.1 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.
- 26.2 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.
- 26.3 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.

### MONITORING OFFICER

- 26.4 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 Governance Services.
- 26.5 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 deputy.
- 26.6 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.
- 26.7 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 Executive Officer Team, or have direct access to the Council's Chief Executive, Executive Directors, Chief Operating Officer and Heads of Service as they see fit.

**PROPER OFFICER for FINANCIAL ARRANGEMENTS  
(Chief Financial or Section 95 Officer)**

- 26.8 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.
- 26.9 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.
- 26.10 In Scotland, there is no statutory requirement for the CFO to be a member of a specified accountancy body.

**CHIEF SOCIAL WORK OFFICER**

- 26.11 The Chief Social Work Officer is a statutory appointment by virtue of Section 3 of the Social Work (Scotland) Act 1968. 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.
- 26.12 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)).
- 26.13 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 May 2016. <http://www.gov.scot/Publications/2016/07/3269/0>.
- 26.14 The Chief Social Work Officer is a "proper officer" of the Council in relation to its social work functions.
- 26.15 The Council has resolved that the Depute Director (Education and Children's Services) is the Chief Social Work Officer.
- 26.16 By virtue of Sections 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 it is included in the list of such posts required to be maintained by the Council.

## DATA PROTECTION OFFICER

- 26.17 The Data Protection Officer (DPO) is a statutory appointment by virtue of Section 69 of the Data Protection Act 2018 and Article 37 of Regulation (EU) 2016/679 of the European Parliament and of The Council (General Data Protection Regulation “GDPR”). Within the Council, the Information Compliance Manager fulfils the role of Data Protection Officer.
- 26.18 Whilst legislation does not explicitly prescribe qualifications of the DPO, the DPO must have an expert knowledge of national and European data protection law and practice and a thorough understanding of how to build, implement and manage data protection programmes.
- 26.19 The DPO is an independent role within the Council and as such cannot be directed in the performance of their statutory tasks.
- 26.20 The DPO must have direct access to have direct access to the Council’s Chief Executive, Executive Directors, Chief Operating Officer and Heads of Service as they see fit.
- 26.21 By virtue of Section 71 of the Act and provisions of the GDPR, the duties of the DPO must include the following:-
- (a) to inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to this Regulation and to other Union or Member State data protection provisions;
  - (b) to monitor compliance with the GDPR and the Data Protection Act 2018, with other Union or Member State data protection provisions and with the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;
  - (c) to provide advice where requested as regards the data protection impact assessment under Section 64 and to monitor compliance
  - (d) to cooperate with the supervisory authority; and
  - (e) to act as the contact point for the supervisory authority on issues relating to processing, including the prior consultation referred to in Section 65 of the Data Protection Act, and to consult, where appropriate, with regard to any other matter.