

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

DRAFT

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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

GENERAL

1. Purpose and Extent

- 1.1 The purpose of the Scheme is to set out the specific duties, powers and responsibilities which the Council has delegated to committees, sub-committees and officers.
- 1.2 Functions relating to adult social care are delegated by virtue of the Public Bodies (Joint Working) (Scotland) Act 2014 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
- 1.3 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.
- 1.4 This Scheme sets out:
 - the functions, duties and powers which are reserved to Council and therefore not delegated
 - the standing committees and sub-committees of the Council together with their respective constitution and terms of reference
 - the functions, duties and powers which are delegated to officers
- 1.5 The Scheme must be read alongside our Standing Orders, Contract Standing Orders and Financial Regulations, together which form the core of the Council's wider governance framework.
- 1.6 The exercise of powers under the Scheme must be in line with the achievement of our agreed priorities and objectives and the relevant key strategies and policies in place at the time.
- 1.7 Notwithstanding the provisions of this Scheme and subject to any statutory requirements, Council can direct that a particular item of business should be determined by a different Committee
- 1.8 Subject to the provisions of the 1973 Act and any other relevant legislation, the Council shall be entitled to amend, vary or revoke this Scheme from time to time.
- 1.9 The Head of Legal & Governance 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.
- 1.10 The Scheme shall apply with effect from **TBC**.

2. Interpretation

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

3. Definitions

- 3.1 “**the 1973 Act**” means the Local Government (Scotland) Act 1973, as amended;
“**the 1989 Act**” means the Local Government and Housing Act 1989
“**the 1994 Act**” means the Local Government etc. (Scotland) Act 1994 as amended;
“**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.
“**Head of Paid Service**” is the Chief Executive as the designated officer under Section 4 of the 1989 Act
“**Monitoring Officer**” is the Head of Legal & Governance as the designated officer under Section 5 of the 1989 Act
“**Provost**” means the civic head appointed by the Council.

MATTERS RESERVED TO COUNCIL

There are some decisions which, by law, can only be taken by full Council (“statutory reservations”, indicated below by the statutory references) and there are others which Council itself chooses not to delegate. The following is a list of those matters which shall only be dealt with by Full Council.

4. General

- 4.1 To undertake any function not otherwise delegated to any Committee, Sub-Committee or Officer or which, notwithstanding this Scheme, can no longer be delegated by law
- 4.2 To consider any Petition which does not fall to be considered by a Committee or Sub-Committee in accordance with this scheme.

5. Strategic Direction

- 5.1 To determine the strategic objectives and priorities of the Council.
- 5.2 Unless otherwise specified within this Scheme, to approve key policies in relation to matters which apply across more than one functional area.
- 5.3 To determine the Council's policies to fulfil its statutory role in relation to Community Planning and community empowerment.
- 5.4 To promote and oppose private legislation. **(1973 Act - Section 82)**
- 5.5 To make, amend, suspend, review and repeal bye-laws. **(1973 Act- Sections 201 & 202)**

6. Democratic Governance

- 6.1 To appoint the Convener and Depute Convener of the Council and to decide on their titles (currently known as Provost and Depute Provost). **(1994 Act - Section 4)**
- 6.2 To determine and keep under review a Scheme of Members' Allowances and to determine all matters relevant to the level of Councillors' allowances.
- 6.3 To change the name of the Council. **(1973 Act - Section 23)**
- 6.4 To approve reasons for the non-attendance of Councillors at meetings **(1973 Act - Section 35)**
- 6.5 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.
- 6.6 To agree Standing Orders regulating the proceedings and business of Council, Committees and Sub-Committee meetings.
- 6.7 To decide whether or not to divide the Council's area into licensing divisions and to appoint Members to the Licensing Board. **(Licensing (Scotland) Act 2005 - Section 5).**

- 6.8 To determine the constitution, convenership, membership, functions and powers of Committees and Special Committees **(1973 Act – Section 57)**.
- 6.9 Unless otherwise specified within this Scheme, to determine the constitution, convenership, membership, functions and powers of Sub-Committees.
- 6.10 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.
- 6.11 To consider reports by the Head of Paid Service **(1989 Act - Section 4)**.
- 6.12 To consider reports by the Monitoring Officer **(1989 Act - Section 5)**.
- 6.13 To consider any findings by the Standards Commission in relation to the Councillors Code of Conduct

7. Partnership & Collaboration

- 7.1 To delegate a power or duty of the Council to, or to accept a delegated power from, any other local authority. **(1973 Act -Section 56)**.
- 7.2 To make arrangement to discharge their functions jointly with other local authorities (1973 Act -Section 56).
- 7.3 To appoint and remove members to serve on Joint Committees, Joint Boards and external organisations.
- 7.4 To agree the Integration Scheme under the Public Bodies (Joint Working) (Scotland) Act 2014
- 7.5 To develop co-operation between the Council and the third sector and to assist and promote the work undertaken by the Sector.

8. Equalities & Diversity

- 8.1 To determine and oversee 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).

9. Finance

- 9.1 To set Council Tax. **(1973 Act -Section 56(6))**
- 9.2 To determine the Council's annual revenue budget and capital programme, other than the specific delegation to the Housing and Social Wellbeing Committee regarding the Housing Revenue Account.
- 9.3 To incur revenue or capital expenditure which is not contained within the overall budgetary provision of the Council and which requires supplementary estimates.
- 9.4 To determine the Council's Annual Treasury Strategy including setting the Council's Annual Authorised Borrowing Limit and approving loans to third parties (outwith the Treasury Management Policy)
- 9.5 To make and amend Financial Regulations.

10. Public Protection

- 10.1 To oversee the work of the Child Protection Committee in relation to relevant legislation.
- 10.2 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.

11. Planning and Land Use

- 11.1 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 **(Town & Country Planning (Scotland) Act 1997)**.
- 11.2 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.
- 11.3 To exercise the residual statutory functions of the TAYplan Strategic Development Planning Authority until such time as these functions are removed following the approval by Scottish Ministers of the statutory National Planning Framework.
- 11.4 The preparation, review, amendment and adoption of the Local Development Plan.

12. Elections

- 12.1 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.
- 12.2 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).

13. Health & Safety

- 13.1 To exercise the strategic and policy functions of the Council in terms of the legislation relating health and safety

14. Community Councils

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

15. Office of the Chief Executive

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

16. Common Seal/Coat of Arms

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

17. COUNCIL: SUB-COMMITTEE(S)

17.1 *Provost's Sub-Committee*

Comprising Provost. Depute Provost and Bailies

Terms of Reference

- to determine in relation to civic heritage and ceremony / hospitality.
- to make recommendations to Council on Twinning arrangements.
- to consider matters relating to civic heritage and ceremony and hospitality.

DELEGATION TO COMMITTEES AND SUB-COMMITTEES

General

- 18.1 Unless specified otherwise and subject to the provisions of the 1973 Act or 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.
- 18.2 The Committees and Sub-Committees of the Council will have the terms of reference and the delegated authority specified within this Scheme.
- 18.3 Council may at any time amend the scope of delegation, membership or terms of reference in respect of any Committee or Sub-Committee.
- 18.4 Notwithstanding the provisions of this Scheme and subject to any statutory requirements, Council can direct that a particular item of business should be determined by a different Committee or by some other body.
- 18.5 Where an proposed item of business could be considered relevant to two or more Committees, the Chief Executive or nominee in consultation with the Leader of the Council (or nominee) will decide where the matter shall be determined.
- 18.6 A Committee or Sub-Committee, (with the exception of an appointment committee referred to in **Standing Order 28 of the Council's [Standing Orders](#)**), may defer any item of business to full Council for determination, with or without a recommendation.
- 18.7 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 or nominee, in consultation with the Leader of the Council (or nominee) to make the final determination on whether 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.
- 18.8 Any Committee or Sub-Committee shall consider any petition submitted to Council relevant to their specific Terms of Reference, in accordance with the Council's approved [Petitions Procedure](#).

19. Appointments to Committees

- 19.1 Subject to Standing Order 6.1, Council shall determine the membership of any Committee and can make changes to membership at any time.
- 19.2 The quorum for any Committee or sub-committee shall be 33% of the voting membership plus 1, unless otherwise specified.
- 19.3 The Committees referred to in Paragraph 20.1 below shall be appointed at the first meeting of the Council following the ordinary election of Councillors in an election year.
- 19.4 Subject to 19.1 above, 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.

- 19.5 Any member of the Council has the right to resign from any Committee.
- 19.6 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.

20. Committees/Sub-Committees

- 20.1 Subject to the provisions of the 1973 Act or any other relevant legislation, the Council will appoint and maintain the following Committees:

COMMITTEE	MEMBERSHIP	QUORUM
Finance and Resources	15 (plus Convener of Council in ex-officio capacity)	6
Audit and Risk	7	3
Scrutiny and Performance	11 <i>conveners of the Environment, Infrastructure and Economic Development Committee, Housing and Social Well-being Committee, Learning and Families Committee and the Finance and Resources Committee cannot be members</i>	5
Environment, Infrastructure and Economic Development	15	6
Housing and Social Well-being	15 <i>when considering housing matters there shall be 2 additional non-voting members comprising representatives from tenants' and residents' associations in the Perth & Kinross area</i>	6 voting members
Learning and Families	15 (plus 9 non-voting members as specified below when dealing with educational matters)	6 voting members
Climate Change and Sustainability	11 (plus 4 non-voting members)	5 voting members
Licensing	13	5
Planning and Placemaking	13	5
Pre-determination Committee	40	17
Local Review Body	3	3
Pilot Kinross-shire Local Committee	4 Kinross-shire ward Councillors (plus one representative from each of the Community Councils in the ward area, in a non-voting capacity)	3 voting members

- 20.2 In addition there shall be the following Common Good Fund Committees each comprising the Convener and Vice-Convener of the Finance Resources Committee together with the ward councillors for the relevant common good area:

- 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
- Perth Common Good Fund Committee
- Pitlochry Common Good Fund Committee
- Kinross Common Good Fund Committee (currently in abeyance due to pilot Kinross-shire Local Committee)

20.3 Each Common Good Committee may invite a member of the local community council(s) from within the common good area to attend meetings in an advisory/non-voting capacity

21. Executive Sub-Committees

21.1 The following Committees shall appoint an Executive Sub-Committee with delegated powers to decide any matter which would normally be determined by the Committee but which, by reason of urgency, requires a decision prior to the next scheduled meeting of the Committee:

- Finance and Resources Committee
- Environment, Infrastructure and Economic Development
- Housing and Social Well-being
- Learning and Families

21.2 Each Executive Sub-Committee shall comprise 7 voting members.

21.3 In addition to urgent business, the Finance and Resources Executive Sub-Committee shall determine requests from Chief Officers for flexible retirement, voluntary early retirement on grounds of efficiency of the Service or redundancy.

21.4 Where the urgent business is an educational matter, the Executive Sub-Committee of the Learning and Families Committee shall also include 3 non-voting members from the Committee)

21.4 Subject to Standing Order 28 (Senior Officer Appointments) and the provisions of this Scheme below, membership of any Sub-Committee shall be determined by and comprise members of the relevant Committee.

21.5 Notwithstanding these provisions, any of the Committees specified in 21.1 above may choose to delegate specific items of business to be considered by their respective Executive Sub-Committee

22. Appointment of Members of Working Groups

22.1 Working Groups may be set up by the Council, Committees or Sub-Committees to allow members to work with relevant officers and other agencies and individuals to draft policy, or to monitor a particular activity, or for another reason.

22.2 The Council, Committee or Sub-Committee shall determine the membership of the Working Group.

22.3 The Council, Committee or Sub-Committee shall determine and may adjust, the remit of the Working Group, including its expected life span.

22.4 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.

- 22.5 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.
- 22.6 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.
- 22.7 A member of a Working Group who is unable to attend a meeting may appoint substitute member to attend in their place.
- 22.8 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, shall be entitled to attend and contribute in a manner agreed by the Convener in advance.

TERMS OF REFERENCE

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23. FINANCE AND RESOURCES COMMITTEE

23.1 The following functions are delegated to the Committee:

Policy

23.2 To determine the Council's policies and strategies in relation to:

- financial planning, management and investment
- workforce planning, management and development
- procurement and commissioning
- property and digital asset planning and management
- information governance and security
- risk management
- performance management and continuous improvement
- best value and following the public pound
- equality and fairness
- communications
- Customer Service Standards
- archives function

Finance

23.3 To oversee the management of the Council's financial resources, specifically relating to the Revenue and Capital Budgets.

23.4 To approve adjustments to management budgets which require a contribution to or from Reserves or would constitute a change to approved Council policy.

23.5 To oversee the arrangements for the collection of the Council Tax and other monies due to the Council.

23.6 To oversee the arrangements for all insurances.

23.7 To receive retrospective operational quarterly reports on treasury activity and compliance and an annual report.

23.8 To make amendments to Treasury Management Policy

Financial Assistance

23.9 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.

Civil Contingencies and Business Continuity

23.10 To exercise the strategic and policy functions of the Council in relation to all matters of civil contingencies and business continuity.

FINANCE AND RESOURCES : SUB-COMMITTEES**23.11 Appeals Sub-Committee**

Comprising 3 members of Committee *

*When considering appeals by teaching staff, 3 members shall be drawn from the Learning and Families Committee

Terms of Reference

- to hear, consider and determine appeals by employees.

23.12 Appointments Sub-Committee

Comprising 4 members reflective of the political balance where practicable, together with the Leader of the Council and the Chief Executive.

Terms of Reference

- To consider applications for and make appointments to posts of Chief Executive, Executive Director and Chief Operating Officer.

23.13 Property Sub-Committee

Comprising 7 members of the Committee.

Terms of Reference

To consider the acquisition and disposal of the Council's property and information systems and technology assets

24. SCRUTINY AND PERFORMANCE COMMITTEE

24.1 The following functions are delegated to the Committee:

Performance

24.2 To review and monitor the performance of the Council in delivering its strategic objectives

24.3 To review and monitor the effectiveness of council policies in:

- improving local outcomes for our communities
- providing better and sustainable public services
- achieving best value

24.4 To review and monitor the performance of our Arm's Length External Organisations in terms of effectiveness in achieving the defined strategic outcomes, efficiency and best value.

24.5 To review and monitor the performance of Tayside Contracts in terms of effectiveness in achieving the defined strategic outcomes, efficiency and best value.

24.6 To review and monitor the quality and standards of the Council service provision commissioned by the Integration Joint Board.

24.7 To consider any reports from external agencies in terms of the quality and standards of any aspect of service provision

24.8 To consider any material findings in respect of whistleblowing relevant to the performance of Council services.

Scrutiny Reviews

24.9 To commission focussed reviews (based on evidence), and carry out reviews recommended from Council or committees, to enable more in-depth scrutiny of policy, practices, and performance where the challenge and scrutiny function adds value and can make an impact in terms of:

- improving local outcomes for our communities
- providing better and sustainable public services
- achieving best value

24.10 In discharging this responsibility, the Committee may;-

- Commission and receive reports
- Call an officer or appropriate Convener/Vice Convener, expert witness or other individual to provide information or answer questions
- Make recommendations to Council or relevant Committee

Corporate Governance

Subject to legislation and the provisions of this Scheme:

- 24.11 To review and oversee the adequacy of the arrangements and procedures, policies and practices in operation in relation to corporate governance and Best Value
- 24.12 To consider the Council's draft Annual Governance Statement prior to inclusion with the draft Annual Accounts

Complaints

- 24.13 To review and monitor performance in relation to the Council's handling of complaints.
- 24.14 To consider any report by the Scottish Public Services Ombudsman in respect of any finding of maladministration against the Council.
- 24.15 To consider the annual reports of the Scottish Public Services Ombudsman.

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

- 24.16 To scrutinise the performance 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.

25. AUDIT AND RISK COMMITTEE

25.1 The following functions are delegated to the committee:

- To oversee the Council's internal audit arrangement
- To oversee the Council's external audit arrangement
- To oversee, monitor and review arrangements for the assessment and management of risk and the Council's system of internal control.
- To consider the draft version of the Council's accounts.
- To consider any material findings in respect of whistleblowing relevant to the Council's system of internal control.

Annual Accounts

25.2 To approve the Draft Unaudited and Audited Annual Accounts

Internal Audit

25.3 to approve the risk-based Internal Audit Plan and any significant interim changes to the Plan

25.4 to consider reports from the Council's Chief Internal Auditor in relation to internal audit activity and performance during the year. These will include:

- updates on the work of Internal Audit, including key findings, issues of concern and action in hand as a result of Internal Audit work;
- regular Internal Audit Progress Reports (including summaries of substantive Internal Audit reports, as requested);
- the Internal Audit Annual Report

External Audit

25.5 To consider and approve reports (including the Annual Audit Strategy, Draft Annual Audit Report and) 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.

Risk Management & the system of internal control

25.6 To monitor and review the adequacy of the arrangements and procedures in place for the assessment and management of risk.

25.7 To monitor and review the adequacy and effectiveness of the Council's system of internal control.

25.8 To consider and provide comment on any draft Council policy in relation to:

- Internal audit
- financial management
- risk management
- anti-fraud and corruption
- whistleblowing.

26. ENVIRONMENT, INFRASTRUCTURE AND ECONOMIC DEVELOPMENT COMMITTEE

26.1 The following functions are delegated to the Committee:

26.2 To determine the Council's policies and strategies in relation to:

- the built environment (structures, roads, bridges, transportation networks, parks, recreation spaces and distribution networks for water and energy
- fleet assets
- the protection of public health
- urban and rural regeneration
- economic well-being

26.3 To determine and oversee the implementation of the Council's policies and strategies to improve the economy of Perth and Kinross and provide a strategic lead for physical, economic and community regeneration within the area

26.4 To promote and encourage public and private investment in businesses, services and infrastructure across Perth and Kinross

26.5 To determine and oversee implementation of the Council's policies and strategies to drive the physical and economic regeneration of the area

26.6 To promote regeneration and inclusion for rural communities

26.7 To consider the acquisition and disposal of the Council's roads and greenspace assets

Environmental Protection

26.8 To exercise the strategic and policy functions of the Council in terms of the Environmental Protection Act 1990 and all related subordinate legislation.

26.9 To determine and oversee the implementation of the Council's obligations in relation environmental assessments required under the Environmental Assessment (Scotland) Act 2005 and all related subordinate legislation.

26.10 To exercise the strategic and policy functions of the Council in terms of the legislation relating to:

- Petroleum and Explosives
- Public Health
- Water Supplies

Waste Management

26.11 To determine the Council's strategies and policies in relation to refuse collection, waste disposal, waste reduction, re-use and recycling.

Reservoirs

26.12 To exercise the strategic and policy functions of the Council in terms of the Reservoirs Act 1975 and all related subordinate legislation.

Harbours etc.

- 26.13 To exercise the strategic and policy 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.

Roads and Traffic

- 26.14 To exercise the strategic and policy functions of the Council acting as (i) Roads Authority under any local statutory provisions, insofar as applicable and (ii) 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
- 26.15 To exercise the strategic and policy functions of the Council in relation to the naming and numbering of streets in terms of the Civic Government (Scotland) Act 1982.
- 26.16 To exercise the strategic and policy functions of the Council in relation to the lighting of roads and streets.
- 26.17 To exercise the strategic and policy functions of the Council in relation to transportation, and to advise and represent the Council in relation to wider strategic transportation matters.

Road Safety

- 26.18 To determine the Council's policies and strategies, in partnership with other agencies as required, on matters of road safety.

Building Standards

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

Land Use Planning

- 26.20 To exercise the strategic and policy functions of the Council, in partnership with other agencies as required, in relation to land use planning including reclamation, environmental improvement, conservation and archaeological matters.
- 26.21 To exercise the strategic and policy functions of the Council in relation to Development Plans, including functions described in Part II of the Town and Country Planning (Scotland) Act 1997 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.

Public Transport

- 26.22 To exercise the strategic and policy 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.

Bereavement Services

- 26.23 To exercise the strategic and policy functions of the Council in terms of legislation relating to burials and cremations.

Economic Development

- 26.24 To exercise the strategic and policy functions of the Council in relation to economic development, including the functions provided for in Sections 90, 171A, 171B, 171C of the Local Government (Scotland) Act 1973
- 26.25 To develop key strategic measures and initiatives to support and promote economic activity, trade development and inward investment
- 26.26 To determine the Council's policy and strategy in relation to Perth Harbour.
- 26.27 To work in partnership with VisitScotland and other agencies to develop and promote tourism and events in Perth & Kinross
- 26.28 To consider proposals in relation to potential international economic links and provide comment and recommendations to Council.

27. HOUSING AND SOCIAL WELLBEING COMMITTEE

27.1 The following functions are delegated to the Committee:

Housing

27.2 To exercise the strategic and policy 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

27.3 To exercise the strategic and policy functions of the Council in relation to Housing Standards.

27.4 To approve plans for the future use of the Council Tax Fund for Affordable Housing, subject to the approval of the Finance and Resources Committee to access the Fund in the Council's Reserves.

27.5 To ensure that the Council meets the standards and outcomes required by all social landlords as described in the Scottish Social Housing Charter.

Health

27.6 To exercise the strategic and policy functions of the Council in terms Part 1 of the Smoking Health and Social Care (Scotland) Act 2005 and all related subordinate legislation.

27.7 To exercise the strategic and policy functions of the Council in terms of the Tobacco and Primary Medical Services (Scotland) Act 2010 and all related subordinate legislation.

Health and Social Care

- 27.8 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.
- 27.9 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.
- 27.10 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.

Community Planning and Community Empowerment

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

Culture and the arts

- 27.12 To exercise the strategic and policy functions of the Council in relation to culture and the arts

Sport and Leisure

- 27.13 To exercise the strategic and policy functions of the Council in relation to sport & leisure services and library and archive services on behalf of the Council.

Libraries

- 27.14 To exercise the strategic and policy functions of the Council in relation to libraries

Community Safety

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

Criminal Justice

- 27.16 To monitor the Criminal Justice Services provided by the Council.
- 27.17 To establish and sustain effective liaison with the Perth & Kinross Community Justice Partnership.

Trading Standards and Environmental Health

27.18 To exercise the strategic and policy functions of the Council in terms of the legislation relating to:

- Animal Health and Welfare
- Consumer Protection
- Dog Fouling
- Fair Trading
- Food Safety
- Weights and Measures

Police and Fire Liaison

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

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

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

28. LEARNING AND FAMILIES COMMITTEE

Membership

28.1 The Learning and Families Committee shall consist of fifteen 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.

28.2 The following functions are delegated to the Committee:

Schools Education

28.3 To exercise the strategic and policy 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

28.4 To exercise the strategic and policy functions of the Council in relation to Early Years' service provision.

28.5 To agree partnership arrangements on behalf of the Council to ensure the provision of quality Early Years Services.

Children's Services

28.6 To exercise the strategic and policy functions of the Council as Social Work Authority in relation to childcare 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

28.7 To exercise the strategic and policy functions of the Council in relation to Community Learning and Development.

Learning & Families Sub-Committees

28.8 The Committee shall appoint the following Sub-Committees:

28.9 ***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

- 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).

28.10 **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

To consider and decide upon:

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

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

Terms of Reference

- 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 leeting process, and to be represented on the Panel.

28.12 **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.

Comprising: elected members who are members of the Learning and Families 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

3 persons, no more than 2 of whom may be elected members. An elected member shall not be Convener.

Terms of Reference

- to consider, 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
- to consider, 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.

28.13 ***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 Learning and Families 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

- to undertake the functions of the Council under The Perth and Kinross Educational Trust Scheme 1964.

29. CLIMATE CHANGE AND SUSTAINABILITY COMMITTEE

29.1 The following functions are delegated to the Committee:

29.2 To determine the Council's policies and strategies in relation to:

- climate change
- sustainability of the natural environment
- biodiversity
- environmental well-being

29.3 To consider the Council's performance in relation to the above areas, including any feedback from internal or external scrutiny and audit activity, and where appropriate to provide comment and recommendations as to improvement actions, to Council, the relevant Committee or Service.

29.4 To consider key corporate policies, strategies and programmes to ensure alignment and compliance with the Council's legal duties and strategic responsibilities in relation to climate change, sustainability of the natural environment, biodiversity and environmental well-being and where appropriate, provide comment and recommendations to Council or the relevant determining Committee.

29.5 To determine policies and strategies which relate to the natural environment, in partnership with other agencies as required, to ensure compliance with obligations under Scottish, UK or international law.

29.6 To monitor and oversee progress in respect of the following actions within the Council's Climate Change Action Plan:

- provision of advice and support to residents and businesses in relation to climate change mitigation measures from home energy efficiency to sustainable transport.
- promotion and support of community initiatives to tackle the climate and biodiversity crisis
- prioritisation for the use and distribution of the new Scottish Government Nature Restoration Fund.
- performance of businesses and key employers against their agreed key indicators in relation to climate change mitigation measures
- provision of support to private landlords to work towards the required housing energy standards, where there are issues with the co-ordination of multi owners.

29.7 To consider any recommendations from the Climate Commission, relevant to the functions of the Council.

Environmental Protection and Enhancement

29.8 To exercise the strategic and policy functions of the Council in relation to enhancement, protection and sustainability of the natural environment under the following Acts and all related subordinate legislation: -

- Clean Air Act 1993
- Air Quality Standards (Scotland) Regs 2010 as amended
- Environment Act 1995;
- Nature Conservation (Scotland) Act 2004;
- Water Environment and Water Services (Scotland) Act 2003

29.9 To consider and provide comment on any environmental assessment carried out in relation to a qualifying plan or programme as required under the Environmental Assessment (Scotland) Act 2005;

Countryside Management

29.10 To exercise the strategic and policy 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

29.11 To exercise the strategic and policy 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 and all related subordinate legislation.

29.12 To exercise the Council's power of appropriation and disposal of land consisting of or forming part of an open space and to consider any objections which may be made to the proposed appropriation or disposal all in terms of the Town and Country Planning (Scotland) Act 1959 and all related legislation.

Trees and Woodlands

29.13 To exercise the strategic and policy functions of the Council in relation to trees and woodlands 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. and all related subordinate legislation.

Flood Prevention

29.14 To exercise the strategic and policy 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

Waste Management

29.15 To consider and provide comment and recommendations to the relevant determining Committee or Service, in respect of policies, strategies and new initiatives in relation to refuse collection, waste disposal, waste reduction, re-use and recycling.

30. LICENSING COMMITTEE

30.1 The following functions are delegated to the Committee:

- To exercise the strategic and policy functions of the Council under the Civic Government (Scotland) Act 1982
- 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;
- To set fees and charges for those licences, registrations and permits referred to above.
- 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
- To exercise the strategic and policy functions of the Council under Part 8 of the Anti-Social Behaviour etc. (Scotland) Act 2004

Byelaws and Management Rules

- 30.2 To consider the promotion of Byelaws for recommendation to the Council
- 30.3 To consider the creation of Management Rules for recommendation to the Council

31. PLANNING AND PLACEMAKING COMMITTEE

31.1 The following functions are delegated to the Committee:

31.2 In accordance with the [Scheme of Delegation](#) approved by Scottish Ministers in January 2020 (or as may subsequently be approved), to exercise the development management functions of the Council as Planning Authority under the terms of the Town and Country Planning (Scotland) Act 1997 and all related legislation, in relation to:-

- (i) applications for both planning permission for major developments and approval of matters specified in conditions associated to 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

31.3 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.

31.4 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.

Planning and Placemaking Sub-Committees

31.5 The Committee shall appoint the following Sub-Committee:

31.6 *Building Standards 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.

DRAFT

32. COMMON GOOD FUND COMMITTEE(S)

32.1 The Common Good Fund Committee(s) shall have 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.

DRAFT

33. LOCAL REVIEW BODY

Membership

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

Quorum

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

Terms of Reference

- 33.3 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 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.

34. PRE-DETERMINATION COMMITTEE**Membership**

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

Quorum

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

Terms of Reference

- 34.3 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 and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

35. PERTH AND KINROSS INTEGRATION JOINT BOARD (for information)

Constitution

- 35.1 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.
- 35.2 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.

Membership

- 35.3 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

- 35.4 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

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

Delegated Powers

- 35.6 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

36. KINROSS-SHIRE LOCAL COMMITTEE

Constitution

- 36.1 As agreed by Council on 6 October 2021, a separate [Scheme of Administration](#) was agreed for a pilot Kinross-shire Local Committee.

Membership

- 36.2 The pilot Committee to comprise of the four ward Councillors for Kinross-shire who shall have voting rights and one representative from each of the six community councils with most or all of their area in the Kinross-shire ward (Cleish & Blairadam, Fossoway & District, Glenfarg, Kinross, Milnathort and Portmoak) who shall be non-voting.

Convener

- 36.3 Council will determine the Convener and Vice-Convener.

Quorum

- 36.4 A meeting of the Committee shall be quorate if three ward councillors are present.

DELEGATION TO OFFICIALS**(AS REQUIRED BY SECTION 50G (2) OF THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973)****37. GENERAL PROVISIONS**

- 37.1 Where statutory powers are delegated to the Chief Executive, Executive Directors, 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.
- 37.2 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.
- 37.3 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.
- 37.4 The Chief Executive, any Executive Director or the Chief Operating Officer are authorised to take all necessary actions in order to affect the delivery of their services and the management of their staff.
- 37.5 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.
- 37.6 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.
- 37.7 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.
- 37.8 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 £25,000.
- 37.9 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.
- 37.10 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.

- 37.11 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.
- 37.12 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.
- 37.13 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.
- 37.14 The Chief Executive, any Executive Director or the Chief Operating Officer may declare any property held by their Service surplus to operational requirements.

38. CHIEF EXECUTIVE

38.1 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 Finance and Resources Committee as soon as practicable.
- In consultation with the Provost, to grant civic hospitality up to a maximum cost of £5,000.

39. ROLE OF DEPUTE CHIEF EXECUTIVE

- 39.1 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.
- 39.2 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.

40. CHIEF OPERATING OFFICER

40.1 The Chief Operating Officer is authorised:

Procurement

- To exercise the functions on behalf of the Council in relation to 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](#).

Property

- To act as the Council's agent in all property matters.
- To dispose of any property or right in property valued 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.

41. HEAD OF LEGAL AND GOVERNANCE SERVICES

41.1 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.

- 41.2 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.

Information Risk

- To be designated as the Senior Information Risk Officer

42. HEAD OF FINANCE

42.1 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.
- To make adjustments to management budgets (Revenue) that:
 - Do not result in any increase or reduction in the Net Expenditure of the Council
 - Do not adjust Council policy

43. EXECUTIVE DIRECTOR (EDUCATION AND CHILDREN'S SERVICES)

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

Children's Services

- To manage and deliver the operational services to enable the Council to fulfil its duties in relation to childcare 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 appoint a suitably qualified 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:
 - Community Justice (Scotland) Act 2016
 - 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.

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44. EXECUTIVE DIRECTOR (COMMUNITIES)

44.1 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 Union (Withdrawal) Act 2018 – all retained and current EU derived domestic legislation;
 - 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 (as amended), including all other powers and duties, not hereby specified, arising in terms of the 1997 act, except as provided for in section 43A Scheme of Delegation as set out 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 (Communities) and the Head of Environmental and Consumer Services.
 - (ii) Arrangements for administration of Fixed Penalties be delegated to the Executive Director (Communities).
 - 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, Infrastructure and Economic Development 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, Infrastructure and Economic Development Committee and the Housing and Social Wellbeing 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.

Land Use Planning

- In accordance with the [Scheme of Delegation](#) approved by Scottish Ministers in January 2020 (or may subsequently be approved) 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 (Scotland) Act 2019, 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 householder /local applications in accordance with the provisions of this 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.

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

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.

45. CHIEF OFFICER / DIRECTOR – INTEGRATED HEALTH AND SOCIAL CARE

- 45.1 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.
- 45.2 The specific provisions relating to the role are as set out in Section 7 of the Perth and Kinross Integration Scheme.

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46. STATUTORY APPOINTMENTS OF OFFICERS

46.1 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:

<u>STATUTORY PROVISION</u>	<u>PURPOSE / ROLE</u>	<u>OFFICER</u>
Social Work (Scotland) Act 1968		
s.3	Chief Officer of Social Work	Chief Officer / Director – Integrated Health and Social Care
Local Government (Scotland) Act 1973		
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

<u>STATUTORY PROVISION</u>	<u>PURPOSE / ROLE</u>	<u>OFFICER</u>
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)
s.192-193	Proper Officer for the purpose of signing tenancy agreements under the Housing (Scotland) Act 2001	Executive Director (Communities) 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 admitted as freemen of the Council's area	Chief Executive

<u>STATUTORY PROVISION</u>	<u>PURPOSE / ROLE</u>	<u>OFFICER</u>
Licensing (Scotland) Act 2005		
Section 22	Competent Objector / Representations to the Licensing Board	Chief Executive and/or Executive Director (Education and Children's Services) and/or Executive Director (Communities)
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 Executive Director (Communities)
Para 8, Schedule 1	Clerk to the Licensing Board	Head of Legal & Governance Services
Civic Government (Scotland) Act 1982		
s.113	Proper Officer in respect of evidence of management rules	Head of Legal & Governance Services Legal Managers
Representation of the People Act 1983		
s.25 and s.41	Returning Officer	Chief Executive
Local Government and Housing Act 1989		
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
Requirements of Writing (Scotland) Act 1995 Para 4, Schedule 2	Proper Officer in respect of execution of Deeds and use of the Council's seal	Chief Executive Head of Legal & Governance Services Legal Managers
Local Government (Contracts) Act 1997		
Section 3	Certification of contracts	Head of Legal and Governance Services Legal Managers

STATUTORY PROVISION**PURPOSE / ROLE****OFFICER**

**Town and Country
Planning (Scotland) Act
1997**

All other powers and duties, not hereby specified, arising in terms of the 1997 act are hereby delegated to:

Executive Director (Communities); Head of Planning and Development; Service Manager: Development Management and Building Standards, Planning and Housing Strategy; Development Management Team Leaders; and Development Plans Team Leader.

**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**

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

**Article 37 of
REGULATION (EU)
2016/679 OF THE
EUROPEAN PARLIAMENT
AND OF THE COUNCIL
Section 69 of the Data
Protection Act 2018**

Data Protection Officer

47. DUTIES OF STATUTORY OFFICERS

HEAD OF PAID SERVICE

- 47.1 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.
- 47.2 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.
- 47.3 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

- 47.4 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.
- 47.5 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.
- 47.6 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.
- 47.7 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)

- 47.8 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.
- 47.9 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.
- 47.10 In Scotland, there is no statutory requirement for the CFO to be a member of a specified accountancy body.

CHIEF SOCIAL WORK OFFICER

- 47.11 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.
- 47.12 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)).
- 47.13 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>.
- 47.14 The Chief Social Work Officer is a "proper officer" of the Council in relation to its social work functions.
- 47.15 The Council has resolved that the Chief Officer / Director – Integrated Health and Social Care is the Chief Social Work Officer.
- 47.16 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

- 47.17 The Data Protection Officer (DPO) is a statutory appointment by virtue of Section 69 of the Data Protection Act 2018 and Article 37 of the UK General Data Protection Regulation ("UK GDPR"). The Council has a designated post of Data Protection Officer.

- 47.18 Whilst legislation does not explicitly prescribe qualifications of the DPO, the DPO must have an expert knowledge of data protection law and practice and a thorough understanding of how to build, implement and manage data protection programmes.
- 47.19 The DPO is an independent role within the Council and as such cannot be directed in the performance of their statutory tasks.
- 47.20 The DPO must have direct access to the Council's Chief Executive, Executive Directors, Chief Operating Officer and Heads of Service as they see fit.
- 47.21 By virtue of Section 71 of the Act and provisions of the UK 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;
 - (b) to monitor compliance with the UK GDPR and the Data Protection Act 2018 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.