

10.00am, Thursday, 11 December 2014

## Review of Scheme of Delegation to Officers

<b>Item number</b>	8.3
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	All

### Executive summary

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Following Council approval of a revised Scheme of Delegation to Officers (“Scheme”) on 13 December 2012, updates to the Scheme were approved by Council on 12 December 2013 and 29 May 2014 to ensure that it was working effectively. The Scheme has continued to be reviewed to ensure that it reflects current practice and procedures.

This report explains the outcome of the latest review of the Scheme and sets out a new draft Scheme for approval with some proposed amendments, as shown in the appendix. The report summarises and explains the main changes that are proposed to the Scheme.

### Links

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<b>Coalition pledges</b>	
<b>Council outcomes</b>	CO25
<b>Single Outcome Agreement</b>	

## Operational Governance: Review of Scheme of Delegation to Officers

### Recommendations

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- 1.1 To repeal the existing Scheme of Delegation to Officers and approve in its place the draft Scheme set out in the appendix to this report, such repeal and approval to take effect from the date of the Council decision; and
- 1.2 To delegate authority to the Director of Corporate Governance to take such actions and make such minor adjustments to the draft Scheme set out in the appendix to this report as may be necessary in order to implement the decision of Council in relation to this report.

### Background

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- 2.1 Following Council approval of the revised Scheme of Delegation to Officers (the "Scheme") on 29 May 2014, the Scheme has been reviewed to ensure that it is working effectively.
- 2.2 The Council is required to have a Scheme by virtue of the Local Government (Scotland) Act 1973. The Scheme is the mechanism for the Council to delegate the authority to perform certain functions to officers and also fulfils the legislative requirement to set out a list of the functions of the Council that are carried out by officers.
- 2.3 The existing Scheme allows efficient and effective service delivery by the delegation of appropriate operational and management functions to officers and ensures that officers to whom authority is delegated consult appropriately with elected members and retain full accountability for the decisions they take.
- 2.4 The proposed revised Scheme is set out in the appendix to this report. Consultation in relation to the draft Scheme has taken place with elected members and officers across each of the service areas of the Council.
- 2.5 The Scheme will be required to be reviewed further in spring 2015 to accommodate the proposed adjustments to the Council's operating model and to assess whether changes are required as a result of the forthcoming integration of health and social care services.

- 3.1 Throughout the Scheme various legislative references have been updated, and there have been minor changes for clarification. There are proposed changes, set out in paragraph 3.12 of this report, which would represent substantive changes to the present authority delegated to officers in the relevant service areas.
- 3.2 All proposed changes are tracked in the draft Scheme as set out in the appendix to this report.

### **Summary of proposed changes to the Scheme**

#### *Main Body of the Scheme*

- 3.3 The proposed changes to the main body of the Scheme are for clarification.
- 3.4 The reference to the procedure for taking urgent decisions has been removed from paragraph 3.11 as it is set out in the Council's Committee Terms of Reference and Delegated Functions.

#### *All Directors*

- 3.5 A new requirement to consult with the appropriate convener in relation to settlement agreements with staff (formerly known as compromise agreements) has been added to paragraph 14 of Appendix 1. On 13 November 2014 the Governance, Risk and Best Value Committee requested that this change was made to the Scheme.
- 3.6 To avoid potential duplication or inconsistency with the terms of the Council's Corporate Debt Policy, changes have been made to specific powers in relation to the write-off of debt to refer to compliance with Council Policy.

#### *Director of Children and Families*

- 3.7 Certain paragraphs of Appendix 2 have been updated or reworded to reflect updates in the law.

#### *Director of Corporate Governance*

- 3.8 The proposed changes to Appendix 4 are for clarification purposes.
- 3.9 The requirement to report to committee quarterly on grant awards from the Culture and Sport budget has been removed from paragraph 47(a) of Appendix 4 and replaced with a requirement to report annually. This has been proposed by the service area to bring reporting such grants into line with reports to committee on grant awards in other areas.

#### *Director of Health and Social Care*

- 3.10 Certain paragraphs of Appendix 5 have been amended or inserted due to the introduction of the Social Care (Self-directed Support) (Scotland) Act 2013.

#### *Director of Services for Communities*

3.11 The power to recover costs related to the service of anti-social behaviour notices has been inserted for clarification at paragraph 290 of Appendix 6.

### **Additional powers in relation to sale and purchases of property on the Housing Revenue Account**

3.12 During the consultation process there have been the following requests from service areas. These would have an impact on the level of authority currently exercised by officers in relation to these matters. It is recommended that Council consider whether to approve these changes as follows:

3.12.1 It is proposed to amend the Director of Services for Communities' power to purchase property on the Housing Revenue Account as set out in paragraph 191 of Appendix 6 to the Scheme. Currently, the Director of Services for Communities has the power to purchase property on the Housing Revenue Account up to a value of £150,000, provided that such purchases are reported annually to the appropriate committee. The proposed change is for the Director of Services for Communities to have the power to purchase property on the Housing Revenue Account up to a value of £250,000. This change is being proposed as part of the Council's pilot project on the selective acquisition and disposal of Council homes. On 30 July 2014 the Finance and Resources Committee agreed that the pilot project could be undertaken for 12 months to inform the development of a more comprehensive asset management strategy.

3.12.2 Related to paragraph 3.12.1 of this report, it is proposed to insert a power in paragraph 191 of Appendix 6 for the Director of Services for Communities to sell property on the Housing Revenue Account up to a value of £250,000, provided that such sales are reported annually to the appropriate committee. It is suggested that delegating authority to the Director of Services for Communities to buy and sell Council homes up to a value of £250,000 will enable the project team to take advantage of market opportunities as and when they arise.

#### *Head of Planning*

3.12.3 It is proposed to insert a power in paragraph 1 of Appendix 7 for the Head of Planning to respond directly to consultations on planning applications and environmental assessments from neighbouring authorities at any stage in the process, subject to the qualifications already listed in paragraph 1 of Appendix 7.

3.12.4 The other proposed changes to Appendix 7 are for clarification purposes.

## **Measures of success**

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4.1 Compliance with legislation and accountable decision-making.

## Financial impact

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- 5.1 There are no direct financial impacts as a result of this report. The costs of implementing the draft Scheme of Delegation to Officers will be contained within existing resources.

## Risk, policy, compliance and governance impact

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- 6.1 Good governance is maintained by the annual review of the Council's operational framework.

## Equalities impact

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- 7.1 There are no direct equalities impacts as a result of this report.

## Sustainability impact

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- 8.1 There is no direct sustainability impact as a result of this report.

## Consultation and engagement

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- 9.1 The Scheme of Delegation to Officers has been prepared in consultation with elected members and officers across all service areas of the Council.

## Background reading/external references

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[City of Edinburgh Council – 12 December 2013 – Operational Governance Framework – Review of the Scheme of Delegation](#)

[City of Edinburgh Council – 29 May 2014 – Governance – Operational Governance Framework Annual Review 2014](#)

[Finance and Resources Committee – 30 July 2014 - Fit for the Future – Getting the Right Mix of Council Homes](#)

[Governance, Risk and Best Value Committee – 13 November 2014 - Settlement Agreements](#)

### **Alastair D Maclean**

Director of Corporate Governance

Contact: Carol Campbell, Head of Legal, Risk and Compliance

E-mail: [carol.campbell@edinburgh.gov.uk](mailto:carol.campbell@edinburgh.gov.uk) | Tel: 0131 529 4822

Contact: Kirsty-Louise Campbell, Governance Manager

E-mail: [kirstylouise.campbell@edinburgh.gov.uk](mailto:kirstylouise.campbell@edinburgh.gov.uk) | Tel: 0131 529 3654

## Links

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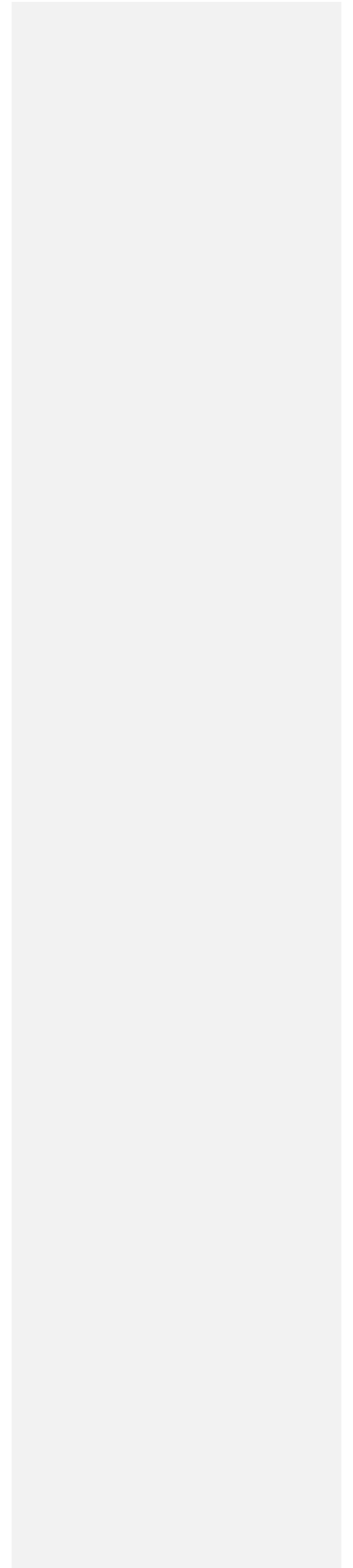
### **Coalition pledges**

**Council outcomes** CO25: The Council has efficient and effective services that deliver on objectives.

### **Single Outcome Agreement**

**Appendices** Appendix one: Draft Scheme of Delegation to Officers

**CITY OF EDINBURGH COUNCIL  
SCHEME OF DELEGATION TO  
OFFICERS**



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**CITY OF EDINBURGH COUNCIL**  
**SCHEME OF DELEGATION TO OFFICERS**

**GENERAL**

**Scheme**

- 1.1 This Scheme of Delegation to Officers ("**Scheme**") applies from ~~29 May~~[11 December](#) 2014 and sets out the powers delegated by the City of Edinburgh Council ("**Council**") to officers, pursuant to the Local Government (Scotland) Act 1973. The Scheme is intended to facilitate the efficient conduct of Council business by clearly setting out the nature and extent of the powers delegated to officers by the Council.
- 1.2 The powers delegated to officers in terms of this Scheme are subject to change by act of Council in accordance with the Standing Orders of the Council.
- 1.3 The Local Government (Scotland) Act 1973 requires the Council to maintain a list specifying those powers which are exercisable by officers, and stating the title of the officer who exercises that power. The lists of powers are set out in this Scheme.
- 1.4 In this Scheme:
- (a) a reference to a statute or statutory provision:
    - (i) is a reference to it as amended, extended or re-enacted from time to time; and
    - (ii) shall include all subordinate legislation made from time to time under that statute or statutory provision;
  - (b) any reference to this Scheme shall include the appendices to the Scheme ("**Appendices**" and each an "**Appendix**");
  - (c) a reference to "**Council Policies**" shall include all and any policies approved by the Council from time to time (and "**Council Policy**" shall be interpreted accordingly);
  - (d) references to paragraphs are to paragraphs of this Scheme; and
  - (e) headings are for convenience, do not form part of this Scheme and shall not be used in its interpretation.

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**Principles of delegation**

- 1.5 Officers to whom power is delegated in terms of this Scheme must exercise their powers in accordance with the following principles:
- (a) the decision or action must not be a matter ("**Reserved Matter**"):
    - (i) reserved by law to the Council or a Committee or sub-committee of the Council ("**Committee**"); or
    - (ii) that the Council or a Committee has expressly determined should be discharged otherwise than by an officer;
  - (b) the decision or action must not alter or be contrary to law or to policy set by the Council and its Committees;
  - (c) the decision or action must be taken in accordance with the Council's Standing Orders as amended from time to time;
  - (d) the decision or action must be taken in accordance with the Financial Regulations and Corporate Debt Policy as amended from time to time and comply with the financial limits set out in those documents;
  - (e) the financial consequences of the decision or action must be contained within the budget approved by Council for the financial year in question;
  - (f) the decision or action must not give rise to a conflict of interest as set out in the Council's code of conduct for employees; and
  - (g) elected members must be appropriately consulted and, in particular, officers must comply with the provisions of paragraph 2 of this Scheme.
- 1.6 If there is a question or dispute on whether a decision taken or proposed to be taken by an officer contravenes the provisions of this Scheme, it will be decided by the Chief Executive in consultation with the Leader of the Council (or the deputy Leader if the Leader is absent).
- 1.7 Each Director shall have authority to take all decisions or actions necessary to implement a policy approved by or a decision previously taken by the Council or a Committee or which facilitate or are conducive to the implementation of such a policy or decision.

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2. **CONSULTATION WITH ELECTED MEMBERS**

**Politically controversial matters and material decisions**

2.1 Where a decision or action proposed to be taken under delegated powers is likely to be regarded as politically controversial or is a decision ("**Material Decision**") that will have or is likely to have:

- (a) a significant effect on financial, reputational or operational risk; and/or
- (b) a significant impact on service delivery or performance;

the appropriate elected members will be consulted before any decision or action is taken. Appropriate elected members will include the relevant convener or vice-convener(s) and, where appropriate, the Leader and/or deputy Leader.

**Local Members**

2.2 Where a decision or action relates to a particular ward or wards (and not to the whole area of the Council) and is likely to directly affect the ward interests of a local member or members, those members will be consulted before any decision or action is taken (save in the case of matters of a routine or confidential nature).

**Responsibility to inform**

2.3 It is the responsibility of the Chief Executive or relevant Director to keep the elected members of the Council appropriately informed about activity arising within the scope of the delegated authority under this Scheme.

**Reports**

2.4 The Council or any Committee may require the Chief Executive or Directors to submit reports on the decisions taken and action authorised by them under delegated authority. The Chief Executive or relevant Director shall submit a report in relation to any Material Decision to Council or the appropriate Committee.

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3. **DELEGATION**

**Delegated authority**

- 3.1 The Council delegates authority for certain powers or functions to the Chief Executive, Directors and heads of service as detailed in this Scheme.
- 3.2 In the event that the Director is unavailable, his/her deputy or the head of the relevant service will have delegated authority to take urgent decisions in the absence of the Director.
- 3.3 The Chief Executive may sub-delegate his/her powers to the relevant Director.
- 3.4 Directors may sub-delegate their delegated powers to their deputy or head(s) of service or such other officer(s) in their service area as they may consider appropriate. Each officer to whom powers are delegated may sub-delegate to such other officers in their service area as they may consider appropriate. This will be in each case the officer of an appropriate level of seniority who is most closely involved with the matter in question. Directors will remain accountable for decisions taken by their sub-delegates.
- 3.5 Sub-delegation of functions by any officer to another officer in accordance with this Scheme will not prevent the officer from whom the authority is being delegated from also discharging those functions.
- 3.6 Where authority has been sub-delegated by one officer to another in accordance with this Scheme, such authority can be revoked at any time without prejudice to any previous decisions made under that authority.
- 3.7 Certain functions ("**Statutory Functions**") must, by law, be carried out by certain statutory officers. The Council delegates authority to those statutory officers ("**Statutory Officers**") to carry out the Statutory Functions. A list of the Statutory Functions and the Statutory Officers can be found in Appendix 8.
- 3.8 The authority delegated to the Chief Executive and Directors in terms of this Scheme shall not include any Statutory Function, which shall be exercised by the appropriate Statutory Officer.
- 3.9 Legislation requires that certain functions be exercised by a "**proper officer**". This Scheme sets out Council officers who are designated as proper officers in relation to particular functions. An officer who is designated as a proper officer by this Scheme may also designate in writing other officer(s) in his or her service area to exercise

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his or her functions as proper officer. Such designation can be revoked at any time by the designating officer without prejudice to any previous actions taken under that designation. Designated proper officers are set out in paragraph 5 of Appendix 1, paragraph 21 of Appendix 7 and in Appendix 9.

- 3.10 Appropriate records must be kept of any sub-delegations of powers made under the Scheme.

#### **Urgency**

~~3.11 If a decision which is not delegated to officers requires to be made urgently between meetings of the Council or relevant Committee, the Chief Executive or appropriate Director, in consultation with the Convener or Vice Convener, may take action, subject to the matter being reported to the next meeting of the Council or relevant Committee.~~

#### **Material Decisions**

3.11 ~~3.12~~ Notwithstanding the terms of any delegation of authority to Directors or other officers in terms of this Scheme, all Material Decisions shall be taken in consultation with the Corporate Management Team ("**CMT**"). It is intended that this will engender greater transparency; foster a collegiate culture of collective decision-making among chief officers; and ensure proper corporate oversight, scrutiny and challenge of Material Decisions.

3.12 ~~3.13~~ It is the responsibility of each Director or other officer to whom powers are delegated to consider whether a decision or action in relation to a matter delegated to him/her is a Material Decision and in the case of an officer other than a Director, to bring it to the attention of the relevant Director. The relevant Director will bring any Material Decision to the next available meeting of the CMT.

3.13 ~~3.14~~ In the case of any Material Decision that relates to a Statutory Function, the provisions of paragraphs 2.1 and 3.12 of this Scheme shall be without prejudice to the legal duties and responsibilities of the relevant Statutory Officer.

3.14 ~~3.15~~ The provisions of paragraph 3.12 of this Scheme shall be without prejudice to the principles of delegation set out in paragraph 1.5 of this Scheme and the requirement to consult with elected members set out in paragraph 2.1 of this Scheme.

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### Major Projects

3.15 ~~3.16~~ The following projects (“**Major Projects**”) shall be dealt with as set out in paragraph 3.17 of this Scheme:

- (a) any project which has an estimated value of £5 million or more; or
- (b) any other corporate project the Chief Executive shall, in consultation with the CMT and the Convener or vice-Convener of the Finance and BudgetResources Committee, so designate.

3.16 ~~3.17~~ In order to ensure effective governance and delivery of Major Projects, authority is delegated to the Director of Corporate Governance to establish a Corporate Programme Office that will:

- (a) oversee all Major Projects to ensure they are initiated appropriately, and independently assess elements of the Major Projects including:
  - (i) options appraisal;
  - (ii) affordability;
  - (iii) implementation;
  - (iv) resource planning;
  - (v) sustainability;
  - (vi) equalities;
  - (vii) environmental impact; and
  - (viii) stakeholder engagement;
- (b) provide ongoing support to Major Projects through key stage or gateway reviews, management dashboard reporting, post completion reviews and tracking benefits realisation; and
- (c) update the CMT and the Finance and BudgetResources Committee on the status and progress of Major Projects.

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### **Contracts Standing Orders**

3.17 ~~3.18~~ Any officer to whom relevant authority is delegated in terms of this Scheme must comply with the terms of the standing orders which apply to all contracts made by or on behalf of the Council for the procurement of the execution of works, the supply of goods and materials to the Council and/or for the provision of services ("**Contract Standing Orders**").

3.18 ~~3.19~~ Any officer to whom relevant authority is delegated shall have regard to:

- (a) the Council's procurement handbook; and
- (b) any guidance issued by the Council in relation to the appointment of consultants;

in each case, as amended from time to time.

### **4. DELEGATION TO CHIEF EXECUTIVE**

4.1 As head of paid service the Chief Executive has overall responsibility for the corporate management and operational functions of the Council that are delegated to officers under this Scheme. The Chief Executive is authorised to discharge any function or exercise any power delegated to any officer under this Scheme.

4.2 In addition, the Council authorises the Chief Executive to:

- (a) take any urgent action necessary in the event of a civil emergency ~~or~~ business continuity or resilience incident;
- (b) act as Returning Officer for local government elections, Westminster elections, Scottish Parliament elections, European elections and Business Improvement District elections under sections 25 and 41 of the Representation of the People Act 1983;
- (c) act as Counting Officer for referendums held in terms of the Political Parties, Elections and Referendums Act 2000; and
- (d) perform the Council's functions under the Regulation of Investigatory Powers (Scotland) Act 2000 and the Regulation of Investigatory Powers Act 2000 in accordance with Council policy, including:
  - (i) appointing authorising officers;

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- (ii) authorising directed surveillance or the use of a covert human intelligence source which involves the likelihood of obtaining confidential information; and
- (iii) authorising the use of covert human intelligence sources in relation to juveniles or vulnerable adults.

4.3 The delegated authority to Directors in relation to staff as set out in Appendix 1 of this Scheme shall apply (where relevant) to the Chief Executive in relation to Directors.

**5. DELEGATION TO ALL DIRECTORS**

5.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, each Director shall have delegated authority to manage all human, financial and other resources within his/her services area, including those functions set out in Appendix 1.

**6. DELEGATION TO DIRECTOR OF CHILDREN AND FAMILIES**

6.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Director of Children and Families, or the Chief Social Work Officer where relevant, shall have delegated authority to exercise the schools, early years, children’s social work services, childcare and community services functions including those set out in Appendix 2.

**7. DELEGATION TO DIRECTOR OF ECONOMIC DEVELOPMENT**

7.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Director of Economic Development shall have delegated authority to exercise the economic development functions set out in Appendix 3.

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8. **DELEGATION TO DIRECTOR OF CORPORATE GOVERNANCE**

8.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Director of Corporate Governance shall have delegated authority to carry out all finance, investment and pensions, central service, culture and sport functions of the Council including those set out in Appendix 4.

9. **DELEGATION TO DIRECTOR OF HEALTH AND SOCIAL CARE**

9.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Director of Health and Social Care, or the Chief Social Work Officer where relevant, shall have delegated authority to exercise the social work, social care and social welfare functions including those set out in Appendix 5.

10. **DELEGATION TO DIRECTOR OF SERVICES FOR COMMUNITIES**

10.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Director of Services for Communities shall have delegated authority to carry out all powers and responsibilities associated with the Council's housing and regeneration, housing support, statutory repairs, community safety, environmental health, scientific services, trading standards, libraries, licensing, registration, advice services, parks, waste management and disposal, street cleaning, grounds maintenance, corporate fleet management and maintenance, community transport, corporate property and facilities management, building standards, transport planning, roads management and maintenance, flood prevention, reservoir and coastal functions including those set out in Appendix 6.

11. **DELEGATION TO HEAD OF PLANNING**

11.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Head of Planning shall have delegated authority to exercise the planning functions set out in Appendix 7.

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## **APPENDIX 1**

### **GENERAL DELEGATION TO DIRECTORS**

These are the functions referred to in paragraph 5 of the Scheme:

#### **Funds, contracts and property**

1. spending money and managing their budgets in accordance with Council approved resource allocations and with the Financial Regulations;
2. subject to any policies and/or directions issued by the Director of Corporate Governance:
  - (a) transferring funds between headings within their approved revenue budgets;
  - (b) transferring funds between capital projects included in the capital budgets for their service;

provided that (1) the Directors inform the Director of Corporate Governance of the transfer and (2) the transfer does not affect revenue or capital budgets for future years;

3. entering into, terminating, varying, suspending or extending contracts subject to compliance with the Council's Contract Standing Orders;
4. declaring property or land surplus to requirements, including one-off blocks of flats and main door properties;

#### **Proper officers**

5. acting as proper officer in terms of any provisions of the Local Government (Scotland) Act 1973, the Requirements of Writing (Scotland) Act 1995 and generally any local government legislation and signing all deeds and other documents which require to be sealed with the Common Seal of the Council or are binding on the Council;

#### **Legal**

6. settling legal actions and claims in consultation with the Head of Legal, Risk and Compliance;

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7. initiating, entering into, defending and withdrawing from legal proceedings in consultation with the Head of Legal, Risk and Compliance;

**Staff**

8. appointing employees within agreed staffing levels up to but excluding Heads of Service;
9. appointing an acting head of service from the staff of the Council when a head of service is absent or the post is vacant;
10. conducting disciplinary and grievance proceedings for employees in accordance with the Council's approved policy and procedures;
11. authorising staff attendance at training courses, conferences, seminars and other developmental activities;
12. changing staffing structures, numbers and gradings in accordance with approved job evaluation arrangements, with the exception of major staffing reviews, provided that such changes comply with guidelines issued by the Director of Corporate Governance;
13. remedying inconsistencies in pay or conditions of service in conjunction with the Director of Corporate Governance;
14. deciding the following personnel matters in accordance with approved schemes and/or guidance issued by the Director of Corporate Governance (or, in the case of teaching staff, by the Director of Children and Families):
  - (a) approval of paid or unpaid leave for special circumstances, secondment, or leave to work or visit abroad;
  - (b) entering into compromise or settlement agreements with staff in relation to their employment with the Council in consultation with the Head of Legal, Risk and Compliance, and subject also to consultation with the appropriate convener;
  - (c) ~~(b)~~-save in the case of a Director, where the decision shall be reserved to the Finance and BudgetResources Committee, making decisions in relation to the Local Government Pension Scheme membership (including, for example, early payment

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of pensions, late transfers, late applications to pay optional pensions contributions, augmented membership, additional pensions, and fraud/forfeiture cases);

- (d) ~~(e)~~ extension of sickness allowance;
- (e) ~~(d)~~ recovery of maternity pay;
- (f) ~~(e)~~ closure of buildings in emergency or exceptional circumstances and early closure during the festive season;
- (g) ~~(f)~~ approval of application for car loans in consultation with the Director of Corporate Governance;
- (h) ~~(g)~~ approval of transfer of annual leave;
- (i) ~~(h)~~ approval of overtime;
- (j) ~~(i)~~ approval of applications for secondary employment;
- (k) ~~(j)~~ authorisation of payments for lectures, speeches etc. to external organisations;
- (l) ~~(k)~~ determination of claims of up to £250 for damage to or loss of the personal property of employees in consultation with the Director of Corporate Governance;
- (m) ~~(l)~~ payment of removal expenses and allowances;
- (n) ~~(m)~~ payment of car users' allowances;
- (o) ~~(n)~~ authorisation of telephone allowances;
- (p) ~~(o)~~ placement of employees on appointment on a point within a grade or grades applicable to the posts;
- (q) ~~(p)~~ establishment and filling of fixed term posts in accordance with the relevant Council Policy; and
- (r) ~~(q)~~ appointment of apprentices on completion of indentures;

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**Health and Safety**

- 15. implementing the Council’s Health and Safety Policy and arrangements;

**Health and Wellbeing**

- 16. implementing the Council’s Health and Wellbeing Policy and arrangements;

**Use of land and buildings**

- 17. approving, subject to compliance with any approved scheme of charges, the use by appropriate organisations, bodies or persons of land and premises owned, occupied or managed by the Council (including land managed on behalf of the Common Good);
- 18. regulating access to, and conduct of persons on property owned, occupied or managed by the Council, including (1) eviction, ejection and expulsion from property and (2) the application and enforcement of management rules under sections 112 and 116 of the Civic Government (Scotland) Act 1982 as approved by the Council from time to time;
- 19. approving the temporary closure of property owned, occupied or managed by the Council to:

- (a) ensure the safety of Council staff or members of the public; or
- (b) undertake essential planned maintenance,

subject to consultation with the appropriate convener or vice-convener and local elected members and insertion of a public notice in the press informing the public of the closure when relevant;

**Regulation of investigatory powers**

- 20. performing the Council’s functions under the Regulation of Investigatory Powers (Scotland) Act 2000 and the Regulation of Investigatory Powers Act 2000 in accordance with Council policy, with the exception of:
  - a) appointing authorising officers;
  - b) authorising directed surveillance or the use of a covert human intelligence source which involves the likelihood of obtaining ‘confidential’ information; and

Field Code Changed

- c) authorising the use of covert human intelligence sources in relation to juveniles or vulnerable adults.

**Renewal of grants to voluntary organisations**

21. approving applications for the renewal of grants up to £25,000, from properly constituted voluntary organisations which meet the Council's eligibility criteria, provided that:

- (a) any increase in the amount of the grant renewal payment from the previous year does not exceed the lesser of (a) 30% of the payment from the previous year or (b) £5,000;
- (b) the decisions taken under this paragraph are reported by the relevant Director every year to the appropriate Committee;
- (c) the grant renewal will not be used wholly or mainly to pay for permanent staff (unless the grant renewal is a payment to playgroups or a service purchasing arrangement under the National Health Service and Community Care Act 1990);
- (d) any relevant local members are informed and consulted where it appears that an application for grant renewal directly affects their ward's interests; and
- (e) a relevant local member has not applied to the relevant Director, within 14 days of being advised of the proposed grant renewal, requesting that the decision is referred to the appropriate Committee;

**Hospitality**

- 22. approving expenditure on hospitality in accordance with Council Policy;
- 23. approving expenditure on overseas visits by officers in accordance with Council Policy;

**Write off**

- 24. writing off or disposing of any stores, plant, furniture, equipment, or any other tangible asset in accordance with the Financial Regulations provided that:

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- (a) the stores, plant, furniture, equipment or such asset has become unfit for use and unsaleable; and
- (b) the decision is made in consultation with the Director of Corporate Governance;

**Access to information**

- 25. responding to requests for information made to the Council under the Freedom of Information (Scotland) Act 2002; Environmental Information (Scotland) Regulations 2004; INSPIRE (Scotland) Regulations 2009 and the Data Protection Act 1998;

**Consultations**

- 26. responding to consultations from external bodies seeking the input of the Council to the extent necessary to provide any technical, scientific, or other factual information, or professional opinion or analysis of an operational nature;

**Grant offers**

- 27. applying for grant funding on behalf of the Council;
- 28. accepting offers of grant funding on behalf of the Council; and

**Council Companies**

- 29. monitoring the performance of each Council company delivering services in his or her service area.

Field Code Changed



**APPENDIX 2**

**DELEGATION TO THE DIRECTOR OF CHILDREN AND FAMILIES**

*(or, where applicable, the Chief Social Work Officer)*

These are the powers referred to in paragraph 6 of the Scheme:

**Education**

1. taking steps to discharge the duty of the Council, as education authority, to secure adequate and efficient provision of school education (including pre-school education) and further education in accordance with section 1 of the Education (Scotland) Act 1980, and in doing so (1) having regard to the duty to ensure that education is directed to the development of the personality, talents and mental and physical abilities of children and young people (section 2 of the Standard in Scotland's Schools etc. Act 2000) and (2) endeavouring to ensure that schools managed by them promote the physical, social, mental and emotional health and well-being of pupils (section 2A of the Standard in Scotland's Schools etc. Act 2000);
2. maintaining and equipping schools and other buildings (section 17 of the Education (Scotland) Act 1980);
3. improving the access to premises for the safety of pupils (section 18 of the Education (Scotland) Act 1980);
4. operating arrangements for pupils from outside the Council's area (sections 23 and 24 of the Education (Scotland) Act 1980);
5. setting school commencement dates for primary schools (section 32 of the Education (Scotland) Act 1980);
6. managing placing requests including publishing of information on arrangements in accordance with the provisions of section 28A, and representing the Council at any placing appeal committee in accordance with section 28F, both of the Education (Scotland) Act 1980;
7. enforcing attendance at school, including bringing proceedings against parents in respect of children's non-attendance (sections 36, 37, 38, 39 and 43(2) of the Education (Scotland) Act 1980);

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Appendix 2 – Delegation to the Director of Children and Families

8. allowing pupils to miss school (section 34 of the Education (Scotland) Act 1980);
9. excluding pupils from school (Regulation 4 of the Schools (General) Scotland Regulations 1975);
10. promoting the involvement of the parents of pupils in attendance at schools in the education provided to those pupils (section 1 of the Scottish Schools (Parental Involvement) Act 2006);
11. awarding bursaries (section 49 of the Education (Scotland) Act 1980);
12. providing transport for pupils and students (section 51 of the Education (Scotland) Act 1980);
13. ensuring copies of education records are available including the ability to set charges (section 4 of the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002);
14. awarding Education Maintenance Allowances (section 73(f) of the Education (Scotland) Act 1980);
15. providing school meals (section 53 of the Education (Scotland) Act 1980);
16. providing clothing (section 54 of the Education (Scotland) Act 1980);
17. discharging the Council's duties in relation to the employment of children (Children and Young Persons (Scotland) Act 1937);
18. licensing stage or theatrical performances by children (Children and Young Persons ~~(Scotland) Act 1937~~ 1963);
19. providing child guidance services (section 4 of the Education (Scotland) Act 1980);
20. referring young people in medically unsuitable employment to the Employment Medical Advisory Service of the Department of Employment;
21. making grants to organisations involved with education;

Field Code Changed

22. managing or instructing the Director of Services for Communities to lease out Council community centres, working with locally elected Management Committees;
23. application of national circulars regarding service conditions of teaching staff. Where there is a choice of action, the circular will be sent to Committee;
24. providing programmes of adult education;
25. providing or arranging in-service training for staff;
26. providing the education authority's representatives on the Appointment Committees for all Head Teachers,
27. providing work experience for pupils who are eligible (section 123 of the Education (Scotland) Act 1980);
28. operating health and safety checks on work-experience placements;
29. dealing with the use of educational premises for licensed functions;
30. managing the Education Arts Development Programme;
31. specifying the level of service and other relevant details for getting tenders for the School and Welfare Catering Services;
32. negotiating variation orders for changes in the level of School and Welfare Catering services with the approved contractor within the contract price approved by the Council;
33. making awards of up to £5,000 for distribution of Childcare Partnership funds;
34. approving joint working arrangements with other bodies;
35. liaising with the Scottish Government Education Department;
36. carrying out the consultations processes required by the Schools (Consultation) (Scotland) Act 2010;
37. in consultation with the Chief Executive and with the Head of Legal, Risk and Compliance, receiving notice of, representing the Council and responding to referrals by the Children's Reporter to the Scottish

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Ministers ~~as in section 56(4)(c) and 75B of~~ under the Children's Hearings (Scotland) Act ~~1995~~2011;

38. implementing the duties and powers set out in the Education (Additional Support for Learning) (Scotland) Act 2004;

### **Social Work**

39. taking necessary steps to discharge the Council's duties under the Social Work (Scotland) Act ~~1968 and 1968, the~~ Children (Scotland) Act ~~1995~~1995, the Social Care (Self-directed Support) (Scotland) Act 2013 and the Children and Young People (Scotland) Act 2014;
40. arranging for the protection of property of people who have gone into hospital or care as in section 48 of National Assistance Act 1948;
41. maintaining a Complaints Procedure and service as in section 5B of the Social Work (Scotland) Act 1968;
42. where the carer of a person over 18 years of age is a child under 18 years of age, assisting Health and Social Care staff to assess the carer's needs and provide information about the assessment as in sections 12A, 12AA and 12AB of the Social Work (Scotland) Act 1968;
43. making direct payments to individuals to allow them to purchase community care services or if they are disabled, to assist them to care for their children under ~~sections 12B and 12C of~~ the Social ~~Work Care~~ (Self-directed Support) (Scotland) Act ~~1968~~2013;
44. making direct payments to 16 and 17 year olds with a disability and to parents of children under 18 with a disability to allow them to pay for children's services under ~~sections 12B and 12C of~~ the Social ~~Work Care~~ (Self-directed Support) (Scotland) Act ~~1968~~2013;
45. burying or cremating any person who was in the care of, or receiving help from, the Council, immediately before their death as in section 28 of the Social Work (Scotland) Act 1968;
46. deciding whether to pay the expenses of parents, relatives etc. visiting people (including looked after children) who are being cared for or maintained in accommodation by the Council, or in attending funerals as in section 29 of the Social Work (Scotland) Act 1968;

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47. providing and maintaining whatever residential and other establishments are needed for the Council's functions under Part II of the Children (Scotland) Act 1995;
48. recovering from other local authorities any costs for services provided to people ordinarily resident there under the Social Work (Scotland) Act 1968 as in section 86 of the Social Work (Scotland) Act 1968;
49. authorising the following finance related issues in accordance with the Financial Regulations and ~~subject to compliance with the Corporate Debt Policy~~ in accordance with Council Policies:
  - (a) writing off debts on social grounds or in exceptional circumstances ~~provided that the write-off of debts exceeding £5000 will be subject to consultation with the appropriate convener or vice-convener~~;
  - (b) reimbursing carers and substitute carers for loss or damage (*ex gratia*) of up to £500, subject to appropriate consultation with the convener or vice-convener;
  - (c) reimbursing staff for loss or damage (*ex gratia*) of up to £500;
  - (d) making payments to staff for emergency expenses (*ex gratia*) of up to £50; and
  - (e) reimbursing neighbours and/or relatives of departmental carers for damage caused by service users (*ex gratia*), where it would be in the interest of the Council to maintain goodwill, subject to appropriate consultation with the convener or vice-convener;
50. providing reports and information to the courts in private law proceedings as in section 11 of the Matrimonial Proceedings (Children) Act 1958 and section 11 of the Children (Scotland) Act 1995;
51. assessing and recovering contributions for "maintainable" children looked after by the Council as in sections 78 to 82 of the Social Work (Scotland) Act 1968;

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52. where there is an assessed need, paying allowances to people who have children and young people residing with them as in section 50 of the Children Act 1975;
53. providing an adoption service in accordance with section 1 of the Adoption and Children (Scotland) Act 2007;
54. supervising and providing reports to the court in respect of non-agency adoptions as in sections 17 and 18 of the Adoption and Children (Scotland) Act 2007;
55. taking necessary or facilitative steps to implement arrangements for the adoption of children;
56. providing adoption support plans under section 45 of the Adoption and Children (Scotland) Act 2007;
57. approving and paying adoption allowances as in section 71 of the Adoption and Children (Scotland) Act 2007;
58. securing the welfare of all foster children, receiving and assessing notifications, inspecting premises, imposing requirements and removing children from unsuitable premises (sections 3, 5, 6, 8, 9, 10 and 12 of the Foster Children (Scotland) Act 1984);
59. preparing and publishing a plan for services to children under 8 years of age as in section 19 of the Children Act 1989;
60. preparing and publishing a three year plan for day care services to children in need as in section 19 of the Children (Scotland) Act 1995;
61. publishing information about services for children in need as in section 20 of the Children (Scotland) Act 1995;
62. safeguarding and promoting the welfare of children looked after by the Council and giving them the opportunity to fulfil their potential as in section 17 of the Children (Scotland) Act 1995;
63. safeguarding and promoting the welfare of children in need giving help “in kind or in cash” as in section 22 of the Children (Scotland) Act 1995;
64. minimising the effect of disability on children, assessing the needs of children with or affected by disability, assessing the ability of their carers

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to meet those needs and providing information assessment as in sections 23, 24, and 24A of the Children (Scotland) Act 1995 and the and the Social Care (Self-directed Support) (Scotland) Act 2013;

65. providing accommodation for children and young people when lost or abandoned or when no-one with parental responsibility can do it as in section 25 of the Children (Scotland) Act 1995;
66. providing accommodation for young people aged 18 to 21 years of age when to do so would safeguard and promote their welfare as in section 25 of the Children (Scotland) Act 1995;
67. providing accommodation and maintenance for children looked after by the Council as in section 26 of the Children (Scotland) Act 1995;
68. providing day care for pre-school and other children as in section 27 of the Children (Scotland) Act 1995;
69. providing after-care for children (under 21 years of age) who were previously looked after by a local authority as in section 29 of the Children (Scotland) Act 1995;
70. providing financial help towards maintaining, educating or training for young people who were looked after by the Council at the time of leaving school age as in section 30 of the Children (Scotland) Act 1995;
71. reviewing cases of children looked after by the Council as in section 31 of the Children (Scotland) Act 1995;
72. removing children from residential establishments as in section 32 of the Children (Scotland) Act 1995;
73. accepting responsibility for orders made in respect of children in other parts of the UK where the child is now ordinarily resident in Edinburgh as in section 33 of the Children (Scotland) Act 1995;
74. providing short term refuges where a child may be at risk of harm as in section 38 of the Children (Scotland) Act 1995;
75. making enquiries and providing information to the Principal Reporter to the Children's Panel where children may need compulsory measures of

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- care as in section ~~5360~~ of the Children's Hearings (Scotland) Act ~~1995~~2011;
76. where a child may be at risk of significant harm, investigating the matter and if need be applying for the following orders ~~under the Children (Scotland) Act 1995~~:
- (a) Child Assessment Order (under section 5535 of Children's Hearings (Scotland) Act 2011);
  - (b) Child Protection Order (under sections 57 to 6037 to 39 of Children's Hearings (Scotland) Act 2011);
  - (c) Emergency Child Protection Order (~~sections 61~~ under section 55 of Children's Hearings (Scotland) Act 2011); and
  - (d) Exclusion Order (under sections 76 to 80 of the Children (Scotland) Act 1995);
77. providing reports on children and their social background for a Children's Hearing as in section ~~5666~~ of the Children's Hearings (Scotland) Act ~~1995~~2011;
78. implementing supervision requirements made by a Children's Hearing ~~as in section 71 of~~ under the Children's Hearings (Scotland) Act ~~1995~~2011;
79. in consultation with Chief Executive and with the Head of Legal, Risk and Compliance, receiving, responding to and representing the Council in respect of all referrals by the Children's Reporter to the Sheriff Principal ~~under section 71A of~~ the Children's Hearings (Scotland) Act ~~1995~~2011;
80. arranging the emergency move of a child subject to a supervision requirement with condition of residence ~~as in section 72 of~~ under the Children's Hearings (Scotland) Act ~~1995~~2011;
81. recommending that a supervision requirement is reviewed by a Children's Hearing ~~as in section 73 of~~ under the Children's Hearings (Scotland) Act ~~1995~~2011;
82. where assessed as necessary, applying to a court for a Permanence Order, or Permanence Order with authority to adopt, under sections 80-83 of the Adoption and Children (Scotland) Act 2007;

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83. applying for variation or revocation of permanence order when there has been a material change of circumstances under section 99 of the Adoption and Children (Scotland) Act 2007;
84. providing information to the Courts and arranging accommodation for the detention of children being prosecuted for, or convicted of criminal offences as in sections 42, 43, 44, and 51 of the Criminal Procedure (Scotland) Act 1995;
85. making purchases, outside the central purchasing arrangements, for necessary food, clothing and other essential items for children in care of the Council and living within the Council's residential establishments for young people;
86. discharging the Council's duties in relation to children and young people under the Secure Accommodation (Scotland) Regulations ~~1996~~[2013](#); and
87. undertaking all activities, powers and duties as the appropriate local authority to do with Parental Orders as provided for in section 13 and in Part 9 of the Antisocial Behaviour etc (Scotland) Act 2004 including:
  - (a) applying for the making of an order or review of an order;
  - (b) supervising parents who are subject to an order and reporting breaches to the relevant court; and
  - (c) providing services and programmes of work or training for parents and generally giving effect to parenting orders.

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**APPENDIX 3 – DELEGATION TO THE DIRECTOR OF ECONOMIC DEVELOPMENT**

These are the powers referred to in paragraph 7 of the Scheme:

1. developing and advising on policies, strategies, programmes and projects for approval by Council or Committee in relation to economic development, external relations and inward investment, including working in partnership with external organisations (both public and private) that deliver economic development activities (including making financial contributions to these activities where appropriate by way of a loan or grant in accordance with criteria approved by Committee);
2. performing the Council’s functions in respect of the East of Scotland Investment Fund, including authorising loans subject to annual reporting to the Economy Committee;
3. awarding grants of up to £15,000 subject to annual reporting to the Economy Committee;
4. allocating space within property managed by Economic Development to relevant partners and agreeing the terms of such arrangements;
5. making changes to the opening hours of buildings managed by Economic Development as required for operational or budgetary reasons; and
6. altering or waiving (in whole or in part) charges of hire of property managed by Economic Development where there are sound financial, operational or other justifiable reasons for doing so, subject to annual reporting to the Economy Committee.

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## **APPENDIX 4**

### **DELEGATION TO THE DIRECTOR OF CORPORATE GOVERNANCE**

These are the powers referred to in paragraph 8 of the Scheme:

#### **Legal, Risk and Compliance**

1. signing court documents;
2. signing missives, other holograph conveyancing documents and notices and orders relating to compulsory purchase orders;
3. engaging private legal firms, counsel, sheriff officers, patent agents and parliamentary agents as appropriate;
4. monitoring the Council's compliance with information compliance legislation, including the Freedom of Information (Scotland) Act 2002, Environmental Information (Scotland) Regulations 2004, INSPIRE (Scotland) Regulations 2009 and the Data Protection Act 1998;
5. monitoring the management of Council records in line with the provisions of the Public Records (Scotland) Act 2011;

#### **Emergency planning**

#### **Resilience**

6. taking action to ensure that the Council's responsibilities and duties under the Civil Contingencies Act 2004 and other emergency planning, [business continuity and resilience](#) legislation are discharged;

#### **Organisational Development**

7. approving applications for early retiral/voluntary severance payments (including teaching staff) subject to an annual report being submitted to Council;
8. issuing certificates as required for employees to apply to the adjudicator for exemption from political restriction;
9. approving all new career development/salary progression schemes and changes to existing schemes;

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10. approving expenditure on civic hospitality in accordance with Council Policy;

**Finance**

11. determining all accounting and financial records and procedures of the Council. Where such procedures and records are maintained in a service area other than that of the Director of Corporate Governance, the Director shall, before making any determination, consult with the Director of the service area concerned;
12. performing any function on behalf of the Common Good Fund, charitable endowments and any other Council funds which would reasonably be deemed to be investment business provided that the Director takes the appropriate advice where necessary and reports any actions to Committee;
13. opening, closing and operating bank accounts on behalf of the Council;
14. approving and making payments due to Her Majesty's Revenue and Customs;
15. reviewing and amending as appropriate the financial limits given in the Financial Regulations every year, in line with the relevant inflation indexes;
16. the pooling and treasury management of all surplus funds under the Council's administration and all executive decisions on the approved treasury management activities subject to compliance with CIPFA's "Code of Practice for Treasury Management in the Public Services" and other relevant professional guidance;
17. all borrowing and lending in accordance with the Treasury Management Policy Statement;
18. providing cash advances as considered appropriate for officers of the Council to defray petty cash, other expenses and any other matters on the administration of imprest accounts;
19. assessing business cases for the taking out of new leases to ensure they are consistent with the securing of best value;

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20. effecting insurance cover and negotiating with the Council's insurers for all claims in consultation with other officers where necessary;
21. reviewing annually all insurances in consultation with the other chief officers as appropriate and reporting annually to the convener or vice-convener;
22. approving the rate of interest the Council is required to charge to borrowers with variable interest rate loans;
23. being responsible for all purchasing arrangements as detailed in the Contracts Standing Orders;
24. collecting and where necessary recovering debt, and where appropriate authorising the write-off of debt, in accordance with ~~the Corporate Debt Policy~~Council Policies;

**Customer Services**

25. collecting (and where necessary recovering) council tax as set by the Council in accordance with section 97(1) and Schedules 2 and 8 of the Local Government Finance Act 1992 and the provisions of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992;
26. issuing demand notices for the collection of rates payable to the Council under section 237 of the Local Government (Scotland) Act 1947;
27. recovering rates under section 247(5) of the Local Government (Scotland) Act 1947, where necessary in consultation with the convener or vice-convener;
28. administering benefits in accordance with the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992;
29. administering council tax reduction scheme in accordance with the Council Tax Reduction (Scotland) Regulations 2012;
30. paying all sums to all creditors subject to the certification and authorisation of the appropriate chief officers;

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31. signing the certificates and petitions that the Sheriff Court requires for Summary Warrant applications to collect arrears of Community Charge Non-Domestic Rates, Council Tax and other income;
32. deciding to call-up loans where borrowers have fallen into arrears with their house purchase loans;
33. establishing procedures for considering, authorising and making discretionary housing payments and for the consideration by officers, other than the original decision makers, of appeals against decisions on such applications;
34. implementing nationally agreed pay awards;
35. approving and making payment of:
  - (a) all salaries, wages, compensations and other emoluments to all employees;
  - (b) pension entitlements to former employees; and
  - (c) tax and national insurance contributions to Her Majesty's Revenue and Customs;

#### **Investment and Pensions**

36. implementing strategies and policies agreed by the Pensions Committee including the investment strategy of the pensions funds and performing any function on behalf of the pensions funds which would reasonably be deemed to be investment business provided that the Director takes the appropriate advice;
37. implementing pension regulations including the application of discretions as required in accordance with policies approved by the [PensionPensions](#) Committee from time to time;
38. appointing, monitoring and reviewing such specialist managers and advisers as are necessary to make sure that the pensions funds' assets are managed effectively;
39. determining all accounting, records and financial procedures of the pension funds;

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40. writing off pension overpayments of up to £3,000 subject to compliance with the appropriate Council Policies;

### **Culture and Sport**

41. devising and implementing cultural, heritage, events and sports programmes;
42. organising museum and gallery exhibitions;
43. altering or waiving (in whole or in part) charges for hire of properties managed by the Culture and Sport division where there are sound financial, operational or other justifiable reasons for doing so;
44. agreeing in principle and instructing the Director of Services for Communities to conclude temporary leases of property managed by the Culture and Sport division;
45. allocating space within property managed by the Culture and Sport division to relevant partners and agreeing the terms of any such arrangements, taking advice as necessary from other service areas, and bringing those arrangements to conclusions as required;
46. making such changes to the opening hours of buildings operated by the Culture and Sport division as are required for operational and budgetary reasons;
47. awarding grants from the Culture and Sport grant budgets subject to:
  - (a) a maximum grant on any one project of £5,000 to be reported to the appropriate Committee annually ~~or quarterly where grants have been awarded in any quarter;~~ and
  - (b) consultation with the appropriate convener and vice-convener;
48. monitoring arms' length organisations which operate Culture and Sport facilities or services, or both, on the Council's behalf, including Edinburgh Leisure and the Festival City Theatres Trust;

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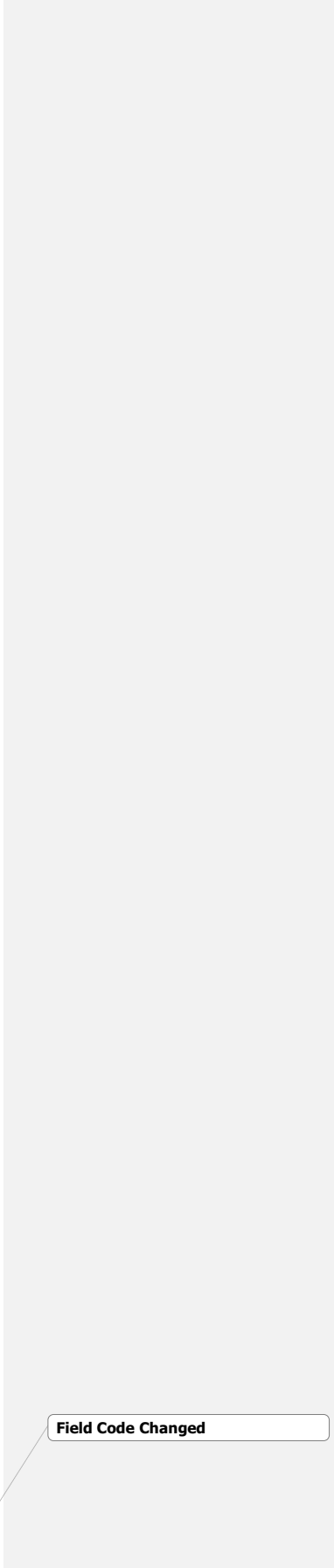
49. accepting and rejecting gifts or bequests to the Council's museums and galleries;
50. lending any object in the Council's museum and gallery collections to any gallery, museum or exhibition in accordance with section 7 of the Edinburgh District Council Order Confirmation Act 1991;
51. making recommendations and taking action on the purchase of museum and gallery objects in accordance with Council Policy;
52. commenting on the impact of planning applications on Edinburgh's archaeology and historic environment in accordance with the Scottish Planning Policy (SPP) and accompanying Planning Advice Note (PAN 2/2011), and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008;
53. establishing Friends and other groups to support the work of the service area;
54. contributing up to £10,000 from the Jean F Watson Bequest trust funds to secure the purchase of any single work of art in accordance with the purposes of the trust, in consultation with the Convener of the Committee on the Jean F Watson Bequest;
55. buying individual items valued up to £1,000 for the Museum of Childhood collection using the Catherine E Cowper Trust's funds.

#### **Public Safety**

56. administering and issuing Safety Certificates and Special Safety Certificates, and carrying out inspection and enforcement duties relating to such certificates, for Designated Stadia and Regulated Stands in accordance with the Fire Safety and Safety of Places of Sports Act 1987, the Safety of Sports Grounds Act 1975 and the Safety of Places of Sports Regulations 1988; and
57. administering and issuing permits, and carrying out inspection and enforcement duties relating to such permits, for raised structures built to accommodate people under section 89 of the Civic Government (Scotland) Act 1982.

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**Field Code Changed**

**APPENDIX 5**  
**DELEGATION TO THE DIRECTOR OF HEALTH AND SOCIAL CARE**  
*(or, where applicable, the Chief Social Work Officer)*

These are the powers referred to in paragraph 9 of the Scheme:

**All service users**

1. Taking any necessary action on behalf of the Council to ensure that it discharges its duties under the National Assistance Acts, the Disabled Persons (Employment) Act 1958, the Social Work (Scotland) Act 1968, the Chronically Sick and Disabled Person's Act 1970, the Disabled Persons (Services, Consultation and Representation) Act 1986, the National Health Service and Community Care Act 1990, the Criminal Procedure (Scotland) Act 1995, the Adults with Incapacity (Scotland) Act 2000, the Housing (Scotland) Act 2001, the Curators ad litem and Reporting Officers (Panels) (Scotland) Regulations 2001, the Community Care and Health (Scotland) Act 2002, the Homelessness (Scotland) Act 2003, the Mental Health (Care and Treatment) (Scotland) Act 2003, the Adult Support and Protection (Scotland) Act 2007, the Public Services Reform (Scotland) Act ~~2010~~2010, the Social Care (Self-directed Support) (Scotland) Act 2013 or generally any legislation concerning the Council's functions relating to the provision of social care and support services;
2. arranging for the protection of property of people who have gone into hospital or care as in section 48 of the National Assistance Act 1948;
3. maintaining a Complaints Procedure and service as in section 5B of the Social Work (Scotland) Act 1968;
4. making direct payments to individuals to help them purchase community care services as in sections 12B and 12C of the Social Work (Scotland) Act 1968;
5. providing home help and laundry facilities as in section 14 of the Social Work (Scotland) Act 1968;

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6. burying or cremating any person who was in the care of, or receiving help from, the Council and so on, immediately before their death as in section 28 of the Social Work (Scotland) Act 1968;
7. deciding whether to pay the expenses of parents, relatives etc. visiting people who are being cared for or maintained in accommodation by the Council, or in attending funerals as in section 29 of the Social Work (Scotland) Act 1968;
8. providing and maintaining whatever residential and other establishments are needed for the Council's functions under the Social Work (Scotland) Act 1968 and the Mental Health (Care and Treatment) (Scotland) Act 2003, in terms of section 59 of the Social Work (Scotland) Act 1968;
9. recovering from other local authorities any costs for services provided to adults ordinarily resident there under the Social Work (Scotland) Act 1968 as in section 86 of the Social Work (Scotland) Act 1968;
10. recovering charges for services provided under the Social Work (Scotland) Act 1968 as in section 87 of the Social Work (Scotland) Act 1968, but subject to directions or regulations under sections 1 to 6 of Community Care and Health (Scotland) Act 2002;
11. providing welfare services for people (including, for example, assistance in arranging the carrying out of any works of adaptation in homes);
12. providing information on Health and Social Care services for people to whom the section applies and any relevant services of other authorities or organisations as in section 9 of the Disabled Persons (Services, Consultation and Representation) Act 1986;
13. making arrangements for facilities for seriously disabled persons for sheltered employment and training as in section 3 of the Disabled Persons (Employment) Act 1958;
14. co-ordinating and overseeing applications for the registration of all services provided by the Council and all related matters as in sections 59, 62 to 75 and 83 to 89 of the Public Services Reform (Scotland) Act 2010;

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15. administering the Panel or Panels appointed under the Curators ad litem and Reporting Officers (Panels) (Scotland) Regulations 2001, including arrangements for training of members of said Panel or Panels;

16. authorising the following finance related issues in accordance with the Financial Regulations and ~~subject to compliance with the Corporate Debt Policy~~Council Policies:

(a) authorise the write-off of debts or charges in the following circumstances:

- i. incorrect assessment brought to light at later date;
- ii. where the service user has died and there is no money in the estate;
- iii. where the service user cannot be traced;
- iv. in the case of a service dispute where a complaint has been upheld; and
- v. for social reasons;

~~provided that in cases where the write off sum is in excess of £5000 it is subject to consultation with the relevant convener or vice convener. ;~~

(b) reimbursing carers and substitute carers for loss or damage (*ex gratia*) of up to £500;

(c) reimbursing staff for loss or damage (*ex gratia*) of up to £500;

(d) making payments to staff for emergency expenses (*ex gratia*) of up to £50; and

(e) reimbursing neighbours and relatives of departmental carers for loss or damage caused by service users (*ex gratia*) of up to £500, where it would be in the interest of the Council to maintain goodwill, subject to appropriate consultation with the relevant convener or vice-convener;

### Community Care

17. taking any necessary action on behalf of the Council to ensure that it discharges its duties under the Adult Support and Protection (Scotland) Act 2007, including:

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- (a) making inquiries about a person's well-being, property or financial affairs if it is known or believed that the person is an adult at risk and that intervention might be needed to protect the person's well-being, property or financial affairs (section 4);
  - (b) applying to the sheriff for an order which authorises a Council officer to take a specified person from a place being visited (sections 7 and 11);
  - (c) if recommended by the relevant medical officer, applying for an order to remove to suitable premises a person in need of care and attention (sections 14 to 18); and
  - (d) applying for a banning order (sections 19 to 34);
18. preparing and publishing a plan for providing community care services in Edinburgh as in section 5A of the Social Work (Scotland) Act 1968;
  19. promoting social welfare including giving help "in kind or in cash" where the terms of section 12 of the Social Work (Scotland) Act 1968 are met;
  20. safeguarding and promoting the welfare of children in need and giving help "in kind or in cash" as in section 22 of the Children (Scotland) Act 1995;
  21. ~~assessing~~collaborating with individuals' and carers' to assess their needs and providing information ~~about assessment as in~~ accordance with sections 12A, 12AA and 12AB of the Social Work (Scotland) Act 1968;
  22. making arrangements with voluntary or other organisations for residential accommodation where nursing is provided for people who appear to need such accommodation as in section 13A of the Social Work (Scotland) Act 1968;
  23. approving rates for and contracts for delivery of residential and other services in circumstances where the politically approved pricing policy does not apply;
  24. assessing needs of disabled or chronically sick people as in section 4 of the Disabled Persons (Services, Consultation and Representation) Act 1986;

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25. assisting persons in need in disposal of produce of their work as in section 13 of the Social Work (Scotland) Act 1968;
26. approving waivers or disregards in respect of determining a client's liability for contribution to social care and housing support services provided;
27. approving waivers and disregards in respect of determining a client's liability for contribution to care home (residential/nursing) costs;
28. approving the variation, suspension or termination of contracts with providers in line with the Council's Quality Assurance arrangements for health and social care services;
29. providing or securing the provision of care and support services including residential services for people who are, or have been, suffering from mental disorder as defined in section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003;
30. providing after-care services for people who are/have been, suffering from mental disorder as in section 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003;
31. appointing Mental Health officers as in section 32 of the Mental Health (Care and Treatment) (Scotland) Act 2003, and supervising the discharge of their statutory responsibilities;
32. discharging the Council's duties under the Adults with Incapacity (Scotland) Act 2000, including:
  - (a) the following duties within section 10:
    - i. supervising guardians;
    - ii. consulting the Public Guardian and Mental Welfare Commission on matters of common interests;
    - iii. receiving and investigating complaints about welfare attorneys and matters of common interests;
    - iv. receiving and investigating complaints about welfare attorneys and guardians; and

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- v. providing a guardian, welfare attorney or person authorised under an intervention order when requested; and

(b) the following duties within section 57:

- i. applying to be a guardian of an adult if there is no other suitable adult and managing the property, financial affairs and welfare of that adult in accordance with any order issued by the court in that regard; and
- ii. providing court reports of private applications to be a guardian;

### **Criminal Justice**

33. supervising and managing offenders subject to community orders or released from prison (or in similar circumstances) including:

- (a) reports for courts and hearings (excluding children);
- (b) probation orders;
- (c) community payback orders;
- (d) community service;
- (e) supervised attendance orders;
- (f) drug treatment and testing orders;
- (g) orders under section 57 of the Criminal Procedure (Scotland) Act 1995;
- (h) diversion from prosecutions;
- (i) parole, or other supervised conditional release from prison;
- (j) provision of advice, guidance and assistance if requested by a person released from prison or detention within the previous 12 months; and
- (k) throughcare services for serving and released prisoners;

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34. providing advice, guidance and assistance to a person who is arrested and detained in police custody, or on whom sentence is deferred in terms of section 27ZA of the Social Work (Scotland) Act 1968; and
35. taking steps to ensure the Council complies with its duties to co-operate with the Scottish Minister and community justice authorities when carrying out its functions in accordance with sections 1 and 10 to 12 of the Management of Offenders etc. (Scotland) Act 2005.

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## **APPENDIX 6**

### **DELEGATION TO THE DIRECTOR OF SERVICES FOR COMMUNITIES**

These are the functions referred to in paragraph 10 of the Scheme:

#### **Notices and Orders**

1. signing notices and orders about road traffic matters;

#### **Roads**

2. overseeing the general management and maintenance of roads (section 1(1) of Roads (Scotland) Act 1984);
3. adding roads to or taking them off the roads authority's list of public roads (section 1(4) of the Roads (Scotland) Act 1984);
4. advising frontagers of the Council's intention to add to or delete from the list of public roads (section 1(5) of the Roads (Scotland) Act 1984);
5. altering or improving existing or proposed roads that cross public roads (section 12 of the Roads (Scotland) Act 1984);
6. serving notice on frontagers of a private road to make up and maintain that road (section 13(1) of the Roads (Scotland) Act 1984);
7. contributing to, or carrying out work on private roads (section 14(1) of the Roads (Scotland) Act 1984);
8. carrying out emergency work on private roads (section 15 of the Roads (Scotland) Act 1984);
9. determining applications for private roads to become public roads when Road Construction Consents are sought (section 16 of the Roads (Scotland) Act 1984);
10. entering into agreements to take over footpaths in accordance with section 18 of the Roads (Scotland) Act 1984;
11. constructing new roads other than special roads which are considered requisite (section 20(1) of the Roads (Scotland) Act 1984);

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12. entering new roads constructed by the local roads authority into the list of public roads (section 20(2) of the Roads (Scotland) Act 1984);
13. granting all road construction applications (section 21 of the Roads (Scotland) Act 1984) except:
  - (a) where there are unresolved objections;
  - (b) when the application is recommended for refusal; and
  - (c) when an applicant wishes to be heard by the Committee in connection with a conditional consent or refusal that has been recommended;
14. serving notices to conform to conditions imposed in a Road Construction Consent (section 21(5) of the Roads (Scotland) Act 1984);
15. stopping up or temporarily closing a new road where there is no construction consent or it is not conformed with (section 23 of the Roads (Scotland) Act 1984);
16. raising, lowering or altering the level of a public road (section 24 of the Roads (Scotland) Act 1984);
17. providing footways for the safety or convenience of pedestrians (section 25 of the Roads (Scotland) Act 1984);
18. constructing, lighting and maintaining pedestrian subways under, or footbridges over, the road for the purpose of making the crossing of a public road less dangerous for pedestrians or protecting traffic along the road from danger (section 26 of the Roads (Scotland) Act 1984);
19. constructing and maintaining works in the carriageway of a public road (section 27 of the Roads (Scotland) Act 1984);
20. providing and maintaining raised paving, pillars, walls, rails, fences or barriers at certain places (section 28 of the Roads (Scotland) Act 1984);
21. putting up and maintaining fences or posts to prevent access or to set the boundary for a road or proposed road (section 29 of the Roads (Scotland) Act 1984);

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22. carrying out work to protect roads against hazards of nature (such as snow, flood or landslide) (section 30 of the Roads (Scotland) Act 1984);
23. using the road authority's powers for draining roads (section 31 of the Roads (Scotland) Act 1984);
24. contributing to the costs of drainage work (e.g. for flood prevention) (section 32 of the Roads (Scotland) Act 1984);
25. providing and maintaining snow gates for the purpose of temporarily closing a road to vehicular traffic on any occasions when snow is rendering or has rendered that road unsafe; and closing and securing any snow gate on the road against traffic (except traffic engaged in the provision or restoration of essential services) in accordance with the provisions set out in section 33 of the Roads (Scotland) Act 1984;
26. taking reasonable steps to prevent snow and ice endangering safe passage over public roads (section 34 of the Roads (Scotland) Act 1984);
27. providing and maintaining lighting on roads or proposed roads (section 35 of the Roads (Scotland) Act 1984);
28. constructing road humps (section 36 of the Roads (Scotland) Act 1984);
29. consulting on providing road humps (section 37 of the Roads (Scotland) Act 1984);
30. constructing traffic calming works (section 39A of the Roads (Scotland) Act 1984);
31. providing, maintaining and removing cattle-grids (sections 41, 42 and 43 of the Roads (Scotland) Act 1984);
32. entering into agreements with other neighbouring authorities in respect of cattle grids (section 44 of the Roads (Scotland) Act 1984);
33. providing cattle grids to supersede gates (section 45 of the Roads (Scotland) Act 1984);
34. making agreements for cattle grids with landowners (section 46 of the Roads (Scotland) Act 1984);

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35. contributing towards the cost of cattle grids (section 47 of the Roads (Scotland) Act 1984);
36. entering into agreements with any persons willing to contribute to the construction or improvement of a road (section 48 of the Roads (Scotland) Act 1984);
37. maintaining structures and equipment for the detection of traffic offences (section 49A of the Roads (Scotland) Act 1984);
38. planting trees, shrubs, grass and other plants within the boundaries of a public road (section 50 of the Roads (Scotland) Act 1984);
39. allowing trees, shrubs, grass and other plants to be planted by people other than the roads authority (section 51 of the Roads (Scotland) Act 1984);
40. carrying out works to mitigate any adverse effect which the construction, improvement, existence or use of any road has or will have on the surroundings (section 52 of the Roads (Scotland) Act 1984);
41. making agreements to use land for landscaping to mitigate the effects of road construction (section 53 of the Roads (Scotland) Act 1984);
42. providing and maintaining rubbish bins or storage bins on roads (section 54 of the Roads (Scotland) Act 1984);
43. authorising in writing work in or excavation under a public road (section 56 of the Roads (Scotland) Act 1984);
44. taking action to eliminate danger caused by works in or under a road (section 57 of the Roads (Scotland) Act 1984);
45. granting permission in writing for any person to leave material on a road, or occupy it in any other way, for building purposes (section 58 of the Roads (Scotland) Act 1984);
46. giving written consent, with reasonable conditions attached as appropriate, for things to be placed or deposited in a road (section 59 of the Roads (Scotland) Act 1984);
47. enforcing rectification of failures to mark, light, fence or sign an obstruction in a road, or enforcing a person to shore up or otherwise

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- protect a building in accordance with section 60 of the Roads (Scotland) Act 1984;
48. allowing equipment to be placed under a road (section 61 of the Roads (Scotland) Act 1984);
  49. temporarily prohibiting or restricting the use of roads which are dangerous (section 62 of the Roads (Scotland) Act 1984);
  50. serving notice that a satisfactory vehicle crossing must be made (section 63 of the Roads (Scotland) Act 1984);
  51. giving statutory undertakers consent to work on footways, footpaths and cycle tracks (section 64 (2) of the Roads (Scotland) Act 1984);
  52. serving notices on owners or occupiers who fail to keep any structures or fixtures (including cellar openings, doors and covers) or vaults, arches, cellars and tunnels in good condition and repair and requiring them to replace, repair or put into good condition such structures, and paying any associated expenditure incurred by owners or occupiers (section 66 of the Roads (Scotland) Act 1984);
  53. issuing notices to enforce an owner to alter a door, gate, window, window shutter or bar in order that it does not reduce safety or convenience by opening outwards into a road (section 67 of the Roads (Scotland) Act 1984);
  54. starting the consultation process to stop up public and private access to land (sections 70 and 72 of the Roads (Scotland) Act 1984);
  55. stopping up public and private access to land where no objections have been received following notice to the public (sections 70 and 72 of the Roads (Scotland) Act 1984);
  56. making land temporarily available for alternative routes during road improvement works (section 74 of the Roads (Scotland) Act 1984);
  57. diverting waters (to construct, improve, protect roads) (section 78 of the Roads (Scotland) Act 1984);
  58. entering into agreements to maintain or contribute to the cost of maintaining bridges (section 79 of the Roads (Scotland) Act 1984);

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59. serving notices relating to the obstruction of views at corners, bends and junctions (section 83 of the Roads (Scotland) Act 1984);
60. giving written permission for skips to be left on a road (section 85 of the Roads (Scotland) Act 1984);
61. removing skips which are causing danger or obstruction (section 86 of the Roads (Scotland) Act 1984);
62. requiring persons to remove structures that have been erected, deposited or placed on a road in accordance with section 87 of the Roads (Scotland) Act 1984;
63. removing or altering projections of any buildings that interfere with safe or convenient passage along a road (section 88 of the Roads (Scotland) Act 1984);
64. intimating to owners that they must remove objects which have fallen onto a road causing an obstruction, and if the owner cannot be traced or fails to remove the object within a reasonable period of time, or if the case is one of emergency, removing such objects (section 89 of the Roads (Scotland) Act 1984);
65. taking all reasonable steps for the purpose of warning road users of obstructions in accordance with section 89 of the Roads (Scotland) Act 1984;
66. recovering from owners any expenses reasonably incurred in the removal of obstructions in accordance with section 89 of the Roads (Scotland) Act 1984;
67. agreeing to any overhead bridge, beam, rail or similar apparatus being fixed or placed over, along, or across a road (section 90 of the Roads (Scotland) Act 1984);
68. serving notices on owners to carry out work to remove danger where a hedge, tree, or shrub is causing danger, obstruction or interference to passing vehicles or pedestrians, and carrying out such work if required in accordance with section 91 of the Roads (Scotland) Act 1984;

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69. giving consent for trees or shrubs to be planted within 5 metres of a carriageway and removing trees or shrubs planted without such consent (section 92 of the Roads (Scotland) Act 1984);
70. taking steps to protect road users from dangerous things on land beside or near a road (section 93 of the Roads (Scotland) Act 1984);
71. serving notices on occupiers of land adjoining a road to take steps to remove any risks of injury caused by wire, electrified fence, spikes, glass or any device (section 93 of the Roads (Scotland) Act 1984);
72. filling in a pipe or ditch next to or near a public road which is a danger to road users (section 94 of the Roads (Scotland) Act 1984);
73. recovering the cost of clearing mud, clay and so on, on a road (section 95 of the Roads (Scotland) Act 1984);
74. recovering extraordinary costs for maintaining a road that has excessively heavy traffic (section 96 of the Roads (Scotland) Act 1984);
75. giving consent in writing to stalls and similar structures being put up next to a principal road for the purposes of selling goods (section 97 of the Roads (Scotland) Act 1984);
76. taking action related to stray and other animals on roads (section 98 of the Roads (Scotland) Act 1984);
77. serving notices on the owners or occupiers of land who are not preventing the flow of water, filth or other offensive matter from their land onto a road, and consenting to other persons carrying out such preventative work with any reasonable conditions in accordance with section 99 of the Roads (Scotland) Act 1984;
78. acquiring land when constructing or improving roads for schemes approved by the Council (sections 104, 106 and 107 of the Roads (Scotland) Act 1984);
79. acquiring land to improve amenity of new or improved road for schemes approved by the Council (section 105 of the Roads (Scotland) Act 1984);
80. obtaining materials for road repairs (section 121 of the Roads (Scotland) Act 1984);

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81. giving people powers of entry for surveys and inspections (section 140(1) of the Roads (Scotland) Act 1984);
82. recovering expenses incurred when surveying land, etc. in connection with the Council's duties as roads authority (section 140(6) of the Roads (Scotland) Act 1984);
83. carrying out work that someone has failed to do (section 141 of the Roads (Scotland) Act 1984);
84. carrying out the roads authority's enforcement functions under the Roads (Scotland) Act 1984;

**Traffic**

85. commencing and completing the statutory procedure set out in the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999, and doing all necessary preparation prior to making orders under the following sections of the Road Traffic Regulation Act 1984:
  - (a) sections 1, 2, and 4 (road traffic orders);
  - (b) section 9 (experimental traffic orders);
  - (c) section 19 (regulation of highways by public service vehicles);
  - (d) sections 32, 35, 45, 46 and 49 (parking places);
  - (e) section 37 (extension of powers for purposes of general scheme traffic control);
  - (f) section 53 (designation orders);
  - (g) sections 82 and 83 (restricted roads); and
  - (h) section 84 (speed limit orders);
86. making orders under sections 1, 2, 4, 9, 19, 32, 35, 37, 45, 46, 49, 53, 82, 83 and 84 (as described in paragraph 84 above) of the Road Traffic Regulation Act 1984 where there have been no objections received by the public;

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87. in relation to orders made under paragraph 85 of the Scheme, making decisions that section 3(1) of the Road Traffic Regulation Act 1984 shall not have effect;
88. commencing and completing the statutory procedure set out in the Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986 prior to:
  - (a) making orders determining the means of exercise of a public right of passage under section 152(2) of the Roads (Scotland) Act 1984; and
  - (b) making orders stopping up roads and dangerous accesses under sections 68 and 69 of the Roads (Scotland) Act 1984;
89. making orders determining the means of exercise of a public right of passage where no objections have been following notice to the public (section 152(2) of the Roads (Scotland) Act 1984);
90. making orders to stop up roads and dangerous accesses where no objections have been received following notice to the public (sections 68 and 69 of the Roads (Scotland) Act 1984);
91. recovering the costs of stopping-up orders made under section 68(1) of the Roads (Scotland) Act 1984 (section 147 of the Roads (Scotland) Act 1984);
92. recovering the costs of stopping up roads for safety reasons (section 147 of the Roads (Scotland) Act 1984);
93. recovering the costs of re-determination orders made under section 152(2) of the Roads (Scotland) Act 1984;
94. remitting proposed orders made under sections 68, 69 or 152(2) of the Roads (Scotland) Act 1984 to the Scottish Ministers for consideration where objections have been received and not subsequently withdrawn, in accordance with Regulation 13 of the Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986;

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95. modifying in order to make less onerous (where the modification will remove an objection), or suspending, experimental traffic orders (section 10 of the Road Traffic Regulation Act 1984);
96. temporarily restricting or banning the use of roads (section 14 and 16A of the Road Traffic Regulation Act 1984);
97. putting up, maintaining and altering pedestrian crossings on roads other than trunk roads (section 23 of the Road Traffic Regulation Act 1984);
98. making arrangements for school crossing patrols (siting, selecting and training staff) (section 26 of the Road Traffic Regulation Act 1984);
99. managing off-street parking places including provision of buildings and apparatus, etc (including the contracting out of any charges) (section 33 of the Road Traffic Regulation Act 1984);
100. providing access to premises through off-street parking places where this would relieve or prevent congestion (section 34 of the Road Traffic Regulation Act 1984);
101. acquiring land for off-street parking for schemes approved by the Council (section 40 of the Road Traffic Regulation Act 1984);
102. buying or hiring parking meters (section 49 of the Road Traffic Regulation Act 1984);
103. providing stands and racks for bicycles in a road or elsewhere (section 63 of the Road Traffic Regulation Act 1984);
104. causing or allowing traffic signs to be placed on or near any road (section 65 of the Road Traffic Regulation Act 1984);
105. consulting on the placing of traffic signs in certain circumstances (section 68 of the Road Traffic Regulation Act 1984);
106. serving notices on owners to remove unauthorised traffic signs (section 69 of the Road Traffic Regulation Act 1984);
107. entering any land and carrying out other powers for placing, replacing, converting and removing traffic signs (section 71 of the Road Traffic Regulation Act 1984);

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108. putting up and maintaining signs showing a speed limit (section 85 of the Road Traffic Regulation Act 1984);
109. placing bollards or other obstructions on roads where an order is in force that prevents or restricts the passage of vehicles (section 92 of the Road Traffic Regulation Act 1984);
110. placing bollards on a road where authorised or ordered by the Scottish Ministers (section 93 of the Road Traffic Regulation Act 1984);
111. taking action to secure the expeditious, convenient and safe movement of traffic, including pedestrians, especially for access control of commercial and public service vehicles (section 122 of the Road Traffic Regulation Act 1984);
112. carrying out studies and implementing a programme of measures designed to promote safety (section 39 of the Road Traffic Act 1988);
113. consulting about road hump proposals and the placing of signs (Road Humps (Scotland) Regulations 1998);
114. effecting duties as to the general procedure to be followed before a temporary order is made (Paragraph 3 of the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 );
115. effecting duties as to various procedures to be followed in respect of timing of road works (Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008);
116. effecting duties as to procedures to be followed in respect of timing of road works (The Road (Traffic Calming)(Scotland) Regulations 1994);
117. effecting duties as to procedures to be followed for consultation about traffic calming works and to the placing of signs at such works (The Roads (Traffic Calming)(Scotland) Regulations 1994 as amended);
118. carrying out the roads authority's responsibilities under the Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958;
119. carrying out the roads authority's responsibilities including enforcement functions under the New Roads and Street Works Act 1991;

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120. commenting as roads authority on planning applications (Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008);
121. agreeing to the provision of seats and other street furniture on footways (section 30 of the Local Government and Planning (Scotland) Act 1982);
122. advising other authorities on their proposals to 'stop up' roads (sections 1 and 9 of the Road Traffic Regulation Act 1984; sections 68, 69 and 152 of the Roads (Scotland) Act 1984);
123. providing and maintaining lighting on roads that are not maintained by the Council;
124. making arrangements for tenders and contracts for supported bus services under the Transport Act 1985;
125. arranging for minor spending on bus services to the limits in force for minor contracts under the Transport Act 1985;
126. erecting, moving and removing bus stops, shelters and information panels provided that no objections are made following notice to the public;
127. installing, moving and removing bus stop clearway markings under the Traffic Signs Regulations and General Directions 2002;
128. carrying out the Council's enforcement functions under the Road Traffic Regulation Act 1984, the Road Traffic Act 1991, the Transport (Scotland) Act 2001 and the Bus Lane Contraventions (Charges, Adjudication and Enforcement) (Scotland) Regulations 2011;
129. assessing whether people are eligible for forms of concessionary travel;
130. issuing and refusing to issue a disabled person's badge under the criteria prescribed in the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000;
131. asking the Traffic Commissioner to make a traffic regulation condition in respect of a local bus service (section 7 of the Transport Act 1985);
132. dealing with applications to run vehicles for the benefit of the community exempt from Public Service Vehicle etc requirements (section 19 of the Transport Act 1985);

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133. dealing with applications to run a community bus service for the benefit of the community exempt from Public Service Vehicle, etc requirements (section 22 of the Transport Act 1985);
134. securing public transport services having regard for transport needs of members of the public who are elderly or disabled (section 63 of the Transport Act 1985); deciding the numbers of, and charges for, Edinburgh healthcare workers' parking permits subject to any disagreement with NHS Lothian being reported to Committee for decision;
135. approving or refusing applications for school crossing patrols in accordance with the Council Policies;

#### **Corporate Property**

136. concluding leases, missives of let, licence agreements or extensions of leases and licence agreements or similar on behalf of the Council where:
  - (a) the length of the lease/missive/agreement is no more than five years and the rent (exclusive of VAT) is no more than £50,000 a year; or
  - (b) the length of the lease/agreement is no more than one month;save where any lease offer which includes an element of community benefit as set out in Council Policy is received, when the decision shall be referred to Committee;
137. negotiating, processing and instructing the Head of Legal, Risk and Compliance to conclude all rent reviews;
138. taking any action to ensure all terms of a lease or licence agreement are enforced, including terminating any lease or agreement and taking whatever action is necessary to effect an eviction where the tenant or licensee has failed to comply with the terms and conditions of the lease or agreement;
139. granting on behalf of the Council 'wayleave' agreements, and concluding missives and leases for sites for sub-stations, gas governors and similar installations for any period whatsoever, with the exception of:

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- (a) wayleaves for gas mains of a diameter greater than 225 mm;
- (b) grids, oil or chemical pipelines; and
- (c) overhead transmission lines with a capacity greater than 33,000 volts

which would only be granted with the Council's consent;

- 140. granting and obtaining a Minute of Waiver for no more than £50,000;
- 141. buying and selling property or property rights up to £50,000 when this is required to help in the acquisition or disposal of a more valuable property and the cost can be offset against the acquisition/disposal;
- 142. permitting a tenant to assign their lease/agreement subject to the Council being in no worse a financial position;
- 143. buying land or property provided that it has been specifically budgeted for;
- 144. marketing surplus property for sale or lease and accepting the highest offer subject to being satisfied that this represents market value (if it is proposed that any offer other than the highest received be accepted, or when any offer includes an element of community benefit as set out in Council Policy then the matter must be considered and approved by the Finance and [BudgetResources](#) Committee);
- 145. agreeing terms for the sale of small plots of land (including land held on the Housing Revenue Account) and instructing the Head of Legal, Risk and Compliance to conclude the sale, subject to being satisfied that this represents market value, and where:
  - (a) the land is existing open space, for example amenity land, landscaping or verges adjoining roads and footpaths;
  - (b) the land does not exceed 150 metres<sup>2</sup>; and
  - (c) the use of the land would be for garden ground or for any other ancillary residential use;

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146. negotiating and instructing the Head of Legal, Risk and Compliance to conclude the sale of residential properties under "Right to Buy" legislation;
147. where property is held for commercial or economic development purposes doing the following :
- (a) negotiating to dispose of land or property at values up to £250,000;
  - (b) negotiating the grant of "minutes of waiver";
  - (c) signing all offers on behalf of the Council to let or take on lease properties where:
    - (a) the length of the lease is no more than five years and the exclusive rent is no more than £50,000 a year; or
    - (b) the length of the lease is no more than one month;save where any lease offer which includes an element of community benefit as set out in Council Policy is received, when the decision shall be referred to Committee;
  - (d) negotiating to renew or extend leases where it is uneconomic or unsuitable to advertise the properties;
  - (e) agreeing to proposed transfers of leases where the Council is landlord, and instructing the Head of Legal, Risk and Compliance to conclude these;
148. where property is held on behalf of the Common Good, doing the following:
- (a) negotiating the grant of "minutes of waiver" or wayleaves;
  - (b) signing on behalf of the Council, as manager, to let properties where:
    - (a) the length of the lease is no more than five years and the exclusive rent is no more than £50,000 a year; or
    - (b) the length of the lease is no more than one month;

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- (c) negotiating to renew or extend leases where it is uneconomic or unsuitable to advertise these properties;
- 149. publishing notices of a proposed appropriation or disposal of land in accordance with sections 24(2A) and 27(2A) of the Town and Country (Scotland) Act 1959;
- 150. negotiating and settling all claims for compensation where property has been purchased by the Council under a compulsory purchase order or requires to be purchased for a scheme or project included within the Council's Capital Investment Programme or where there has been a loss in value of property relating to works carried out by the Council;

### **Housing and Regeneration**

- 151. approving offers and authorising payments of grants to Registered Social Landlords;
- 152. where grants have been paid to Registered Social Landlords agreeing options of recycling or repayment of such grants in the case of property disposals, subject to consultation with the appropriate convener or vice convener where the value of the grant is more than £250,000;
- 153. authorising and carrying out repairs and maintenance to homes owned by the Council for the purposes of affordable rent ("Council Homes") in accordance with the Council's repairs policy;
- 154. operating the "Right to Repair" scheme for tenants of Council Homes;
- 155. consenting to repairs and improvements of Council Homes;
- 156. determining whether the costs of repair and improvements to Council Homes should be reimbursed and to what extent;
- 157. maintaining a common housing register and allocating Council Homes in accordance with the Council's lettings policy;
- 158. collecting rent, service charges and court costs where applicable from current and former tenants of Council Homes;
- 159. writing off the arrears balances of former tenants of Council Homes ~~up to the sum of £1,000 in accordance with Council Policies;~~

Field Code Changed



160. consulting with tenants of Council Homes on increases to rent and service charges;
161. carrying out regular maintenance of land held on the Housing Revenue Account;
162. instructing repairs to common areas in accordance with the Tenements (Scotland) Act 2004;
163. preparing and implementing a Tenant Participation Strategy, including keeping a register of tenant organisations in accordance with the Housing (Scotland) Act 2001 and awarding grants up to the sum of £5,000;
164. undertaking housing offender management (sex and serious violent offenders);
165. registering the Council as a property factor with the Scottish Government and taking steps to comply with the code of conduct's standards of practice, in accordance with the Property Factors (Scotland) Act 2011;
166. preparing and maintaining a register of private landlords under the Antisocial Behaviour etc. (Scotland) Act 2004;
167. carrying out functions under Part 9 of the Antisocial Behaviour etc. (Scotland) Act 2004;
168. entering relevant persons on the register of private landlords on receipt of a valid application to register or where a relevant person has made a valid houses of multiple occupancy application;
169. approving the entitlement to the relevant discounts of the fee to be entered on the register of private landlords;
170. carrying out the Council's duties as a landlord under section 30 of the Housing (Scotland) Act 1988;
171. issuing, serving, suspending and revoking work notices under sections 30, 31 and 32 of the Housing (Scotland) Act 2006;

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172. carrying out work where the owner of a house fails to comply with a work notice or a demolition notice under section 35 of the Housing (Scotland) Act 2006;
173. carrying out work after notification by a private rented housing committee under section 36 of the Housing (Scotland) Act 2006;
174. carrying out the Council's functions in relation to maintenance under Part 1, Chapter 6 of the Housing (Scotland) Act 2006;
175. carrying out the Council's functions in relation to the licensing of houses in multiple occupation under Part 5 of the Housing (Scotland) Act 2006;
176. carrying out the Council's functions in relation to rights of entry under Part 9 of the Housing (Scotland) Act 2006;
177. exercising the Council's powers under Part 10 of the Housing (Scotland) Act 2006;
178. granting, varying, refusing, extending and revoking temporary exemption orders in terms of section 142 and 143 of the Housing (Scotland) Act 2006;
179. issuing rent penalty notices under the Antisocial Behaviour etc. (Scotland) Act 2004;
180. where appropriate, refunding fees that have been paid by applicants to be placed on the register of landlords;
181. processing applications for improvement grants and domestic sound-proofing grants including authority to make payments;
182. seeking the Scottish Minister's approval to raise the level of grant given to an owner-occupier for reasons of hardship;
183. carrying out assessments to determine homelessness or the threat of homelessness, and discharging the Council's duties in respect of those assessed as either being homeless or under threat of homelessness;
184. carrying out spot purchases of accommodation, including Bed and Breakfasts, for homeless, temporary or emergency accommodation;

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185. entering into leasing agreements with Registered Social Landlords for homeless, temporary or emergency accommodation;
186. carrying out repairs to white goods and furnishings in homeless, temporary or emergency accommodation and core furnished tenancies;
187. kennelling pets for households staying in homeless, temporary or emergency accommodation;
188. determining who receives housing support in line with Council Policies;
189. implementing and enforcing the conditions of the Council's tenancy agreements for Council Homes including decisions to progress cases for repossession and eviction action;
190. determining eligibility of applicants and administering the sale of Council Homes under "Right to Buy" legislation;
191. purchasing and selling property on the Housing Revenue Account up to a value of £150,000, 250,000, provided that such purchases are reported annually to the appropriate committee;
192. serving notices for repairs, enforcement, carrying out and recovery of costs and expenses in terms of Part 8 of the Civic Government (Scotland) Act 1982 and Part 4 of the Building (Scotland) Act 2003;
193. withdrawing, waiving and relaxing notices issued under Part 4 of the Building (Scotland) Act 2003;
194. responding in emergency situations and carrying out repairs immediately where damage to property or health or safety matters are issues and recovering the costs and expenses of doing so;
195. inspecting properties, serving (as proper officer) and enforcing notices and recovering costs under the Edinburgh District Council Order Confirmation Act 1991;
196. executing any works necessary for securing, restoring or repairing privately owned properties, and recovery from the owners of the relevant properties of any expenses reasonably incurred by the Council

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in doing so, all in accordance with the Edinburgh District Council Order Confirmation Act 1991;

### **Licensing**

197. granting or refusing permits for public charitable collections in accordance with criteria approved by the Regulatory Committee;
198. granting, attaching conditions to, or refusing applications for licences etc. under the Civic Government (Scotland) Act 1982 and the legislation listed in Part A of Appendix 10 subject to:
  - (a) consultation with two of the members of the Regulatory Committee on a weekly duty rota (after consideration of reports by the appropriate officials); and
  - (b) there being no objection or unresolved representation from a member of the public or the Chief Constable to the application;
199. subject to consultation with the Convener or Vice-Convener of the Licensing Sub-Committee, granting, attaching conditions to or refusing applications for any temporary licences etc. under the Civic Government (Scotland) Act 1982 and the legislation listed in Part of A of Appendix 10 where there has been an objection or unresolved representation from a member of the public or the Chief Constable to the application and where it is not practicable for the application to be considered by a scheduled meeting of the Licensing Sub-Committee prior to the date the licence, if granted, is due to commence;
200. granting, renewing or varying any licence where Police Scotland has made a representation about conditions to be attached to the licence and where the applicant has indicated in writing that he/she agrees to the conditions;
201. renewing licences etc. under the Civic Government (Scotland) Act 1982 and the legislation listed in Part A of Appendix 10 if satisfied (after considering reports by appropriate officials) as to their non-contentious nature;
202. keeping a public register of applications, permissions and licences;

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203. granting late hours catering licence renewals with hours in excess of zoning policy, where those hours had been enjoyed in the preceding year without complaint;
204. refunding a reasonable part of the appropriate application fee for applications which have been withdrawn or licences which have been granted;
205. advertising any proposed taxi stance appointment, variation or revocation and:
  - (a) determining the proposal where no public objections or representations are received, (otherwise referring the proposal to the Committee only); and
  - (b) determining the starting date of any change;
206. accepting a new application from a taxi or private hire car owner up to four weeks after the expiry of their existing licence at the rate appropriate for a renewal;
207. determining taxi and private hire car licence applications where an adverse medical report has been received;
208. subject to consultation with the Convener or Vice-Convener of the Licensing Sub-Committee, considering whether there is a serious threat to public order or public safety which would justify a temporary suspension of any licences etc. under the Civic Government (Scotland) Act 1982 and the legislation listed in Part A of Appendix 10, and where it is considered that such a serious threat to public order or public safety exists, temporarily suspending the relevant licences etc. for a period of not more than 6 weeks or until the suspension is considered by the Licensing Sub-Committee, whichever is sooner;
209. suspending taxi and private hire licences on a temporary basis on medical grounds during the currency of a licence where the licence holder is in agreement;
210. exempting new taxi driver licence applicants from elements of the compulsory training course if they have alternative equivalent qualifications after consultation with the Cab Inspector and training course officials at Edinburgh College;

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211. accepting applications to drive taxis or private hire cars from previously licensed drivers up to six months after the expiry of their licence at the appropriate renewal fee;
212. exercising the Council's overriding discretion in respect of section 187(a)(i) of the City of Edinburgh Council's Licensing Conditions for Taxis, Private Hire Cars, Taxi Drivers and Private Hire Car Drivers 2006) to consider any negative factor such as:
  - (a) whether the width deviated from the manufacturer's specification for standard vehicles of that type;
  - (b) whether factory options such as wide wheels and tyres had been added; and
  - (c) whether the vehicle could safely fit/utilise any taxi stance, without the stance being modified;
213. approving the installation of WiFi equipment in any relevant licensed vehicle;
214. determining whether alleged changes in circumstances are adequate to allow the processing of a further application for a civic licence within 12 months of a refusal (including licences for houses in multiple occupation);
215. accepting a re-application for a civic licence within 12 months of a refusal under existing delegated powers due to an error of material fact and transferring the original fee to the re-application (including licences for houses in multiple occupation);
216. issuing letters of confirmation in respect of notification of public processions received with the exception of any notification attracting representations that cannot be resolved through negotiation;
217. determining requests for variation of fees for Houses in Multiple Occupation licences;
218. appointing members to vacancies arising in the membership of the Council's Licensing Forum;

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219. appointing Licensing Standards Officers in accordance with section 13 of the Licensing (Scotland) Act 2005;

**Community safety, environmental, consumer protection and registration etc.**

220. exercising statutory duties, functions and enforcement under the legislation listed in Part B of Appendix 10;
221. when appointed by the Scottish Ministers, acting on any Emergency Order made under Part I of the Food and Environment Protection Act 1985;
222. carrying out reviews of air quality in accordance with section 82 of the Environment Act 1995;
223. carrying out assessments of air quality and the achievement of air quality standards or objectives in accordance with section 84 of the Environment Act 1995;
224. complying with any regulations made under section 87 of the Environment Act 1995;
225. enforcing pollution and nuisance control measures in accordance with sections 107, 108 and 109 of the Environment Act 1995;
226. issuing suspension notices under section 14 of the Consumer Protection Act 1987 for goods which are suspected to be unsafe;
227. granting licences under the Health and Safety at Work etc. Act 1974 and the Petroleum Acts 1928 and 1936;
228. making registrations under the Health and Safety and Work etc. Act 1974 and The Poisons Act 1972;
229. appointing and exercising the powers of health and safety inspectors under sections 19 and 20 of the Health and Safety at Work etc. Act 1974;
230. serving improvement notices and prohibition notices under sections 21 and 22 and in accordance with section 23 of the Health and Safety at Work etc. Act 1974;

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231. dealing with causes of imminent danger in accordance with section 25 of the Health and Safety at Work etc. Act 1974;
232. providing information upon request under section 27 of the Health and Safety at Work etc. Act 1974;
233. issuing credentials to enforcement staff so that they can deal with enforcing and licensing as provided by the relevant legislation and European directives;
234. providing mobile toilet units, waste containers and assistance in kind to community organisations and charities for special events for which budget provision has been made, and charging for provisions of these services where appropriate;
235. performing the Council's public health duties under sections 11 to 21 of the Edinburgh District Council Order Confirmation Act 1991, including registering premises for acupuncturists, ear piercers and electrolysis;
236. enforcing the removal or discontinuation of advertisements under section 186 of the Town and Country Planning (Scotland) Act 1997;
237. removing or obliterating placards or posters in accordance with section 187 of the Town and Country Planning (Scotland) Act 1997;
238. appointing officer to carry out the functions of the Public Analyst and Food Examiner (Food Safety Act 1990) and Agricultural Analyst/Depute Agricultural Analyst (Agriculture Act 1970);
239. exercising the Council's statutory duties and functions under the Food Safety Act 1990 in relation to issues of food hygiene, food safety and food standards, including labelling;
240. burying or cremating the body of any person who has died or been found dead in the Council's area in any case where it appears to the Council that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the Council, and recovering from the estate of the deceased person the expenses incurred in doing so (section 50 of the National Assistance Act 1948);

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241. burying or cremating the body of any deceased person who immediately before his death was in the care of, receiving assistance from, or was a child being looked after by the Council, and recovering the expenses of doing so from the estate of the deceased person or from any person who was liable to maintain the deceased person immediately before his death expenses incurred (section 28 of the Social Work (Scotland) Act 1968);
242. maintaining cemeteries in accordance with section 10 of the Edinburgh District Council Order Confirmation Act 1991;
243. awarding community grants from dedicated budgets;
244. providing and managing the Council's library services;
245. requiring any person to whom any article (other than a book or periodical) is lent to deposit with the Council a sum of money for the safe return of such article (section 6 of the City of Edinburgh District Council Order Confirmation Act 1991);
246. making a charge for notifying a person that an article reserved by him has become available for borrowing (section 6 of the City of Edinburgh District Council Order Confirmation Act 1991);
247. charging for the borrowing of any article (other than a book or periodical) or the provision of any service provided at libraries (section 6 of the City of Edinburgh District Council Order Confirmation Act 1991);
248. prescribing periods within which any article borrowed from a library must be returned, and exacting penalties for the retention by borrowers of any article beyond such period (section 39(1)(a) of the Edinburgh Corporation Order Confirmation Act 1967);
249. exercising the Council's functions under the Registration of Births, Deaths and Marriages (Scotland) Act 1965, including registering births and deaths, appointing a registrar and providing and maintaining a registration office;
250. appointing an officer to carry out the function of dealing with stray dogs, and dealing with dogs under sections 149, 150 and 151 of the Environmental Protection Act 1990;

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251. exercising the Council's functions under the Public Health etc. (Scotland) Act 2008, including serving notices on owners or occupiers of infected premises, inspecting premises and recovering expenses, and providing mortuaries;
252. carrying out periodical inspections and exercising the Council's inspections functions under sections 9A to 12 of the Zoo Licensing Act 1981;
253. considering and making arrangements for the welfare of animals following the closure of a zoo under sections 16E and 16G of the Zoo Licensing Act 1981;
254. controlling noise from construction sites by investigating, and serving and publishing notices in accordance with section 60 of the Control of Pollution Act 1974;
255. considering applications for consents for works in accordance with section 61 of the Control of Pollution Act 1974;
256. investigating noise nuisance, serving warning notices and fixed penalty notices, and seizing and removing equipment in accordance with sections 41 to 54 of the Antisocial Behaviour etc (Scotland) Act 2004;
257. inspecting and investigating statutory nuisances in accordance with section 79 of the Environmental Protection Act 1990;
258. serving abatement notices and fixed penalty notices and initiating proceedings in relation to statutory nuisances in accordance with sections 80, 80ZA and 80A of the Environmental Protection Act 1990;
259. abating nuisances and recovering costs in relation to statutory nuisances in accordance with sections 81, 81A and 81B of the Environmental Protection Act 1990;
260. issuing fixed penalty notices for contravention of unauthorised or harmful depositing of waste in accordance with section 33A of the Environmental Protection Act 1990;
261. complying with the duty of care in relation to controlled waste in accordance with section 34 of the Environmental Protection Act 1990;

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262. issuing notices and requiring the removal of waste unlawfully deposited in accordance with section 59 of the Environmental Protection Act 1990;
263. promoting the abatement of litter in accordance with section 87 of the Environmental Protection Act 1990;
264. issuing fixed penalty notices for leaving litter in accordance with section 88 of the Environmental Protection Act 1990;
265. designating litter control areas in accordance with section 90 of the Environmental Protection Act 1990;
266. serving litter abatement notices in accordance with section 92 of the Environmental Protection Act 1990;
267. issuing street litter control notices in accordance with section 93 of the Environmental Protection Act 1990;
268. complying with regulations made by Scottish Ministers in relation to the display of advertisements in accordance with section 182 of the Town and Country Planning (Scotland) Act 1997;
269. removing abandoned vehicles in accordance with section 3 of the Refuse Disposal (Amenity) Act 1978;
270. disposing of removed vehicles in accordance with section 4 of the Refuse Disposal (Amenity) Act 1978;
271. recovering expenses in connection with removed vehicles in accordance with section 5 of the Refuse Disposal (Amenity) Act 1978;
272. dealing with graffiti in accordance with sections 58 to 65 of the Antisocial Behaviour (Scotland) Act 2004, including serving graffiti removal notices;
273. exercising the Council's functions and powers in relation to drains in accordance with sections 29 to 34 of the Edinburgh District Council Order Confirmation Act 1991, including removing obstructions and serving notices;
274. serving notices in relation to environmental matters in accordance with section 160 of the Environmental Protection Act 1990;

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275. discharging the Council's functions in relation to genetically modified organisms, including entering and inspecting premises, in accordance with sections 114 to 117 of the Environmental Protection Act 1990;
276. entering into agreements with Scottish Ministers to exercise the enforcement functions of the Scottish Ministers in relation to genetically modified organisms, in accordance with section 125 of the Environmental Protection Act 1990;
277. inspecting land in relation to contaminated land in accordance with section 78B of the Environmental Protection Act 1990;
278. serving notices to require the remediation of contaminated land in accordance with section 78E of the Environmental Protection Act 1990;
279. determining appropriate people to bear responsibility for remediation in accordance with section 78F of the Environmental Protection Act 1990;
280. consulting in relation to remediation notices in accordance with sections 78G and 78H of the Environmental Protection Act 1990;
281. serving remediation notices in relation to the pollution of controlled waters in accordance with section 78J of the Environmental Protection Act 1990;
282. serving remediation notices in relation to contaminating substances which escape to other land in accordance with section 78K of the Environmental Protection Act 1990;
283. carrying out remediation to the relevant land or water environment in accordance with section 78N of the Environmental Protection Act 1990;
284. recovering costs incurred in relation to remediation in accordance with section 78P of the Environmental Protection Act 1990;
285. exercising the Council's functions where remediation notices have been served and the land becomes special land, in accordance with section 78Q of the Environmental Protection Act 1990;

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286. maintaining a register in relation to contaminated land in accordance with sections 78R, 78S and 78T of the Environmental Protection Act 1990;
287. providing SEPA with information when requested in accordance with section 78U of the Environmental Protection Act 1990;
288. having regard to guidance issued by SEPA in accordance with section 78V of the Environmental Protection Act 1990;
289. exercising the Council's functions in relation to contaminated land in accordance with section 78X of the Environmental Protection Act 1990;
290. carrying out the Council's enforcement functions under sections 68, ~~71~~71, 74 and ~~74~~78 of the Antisocial Behaviour etc. (Scotland) Act 2004
291. carrying out the Council's enforcement functions in relation to fireworks in accordance with sections 2, 3 and 12 of the Fireworks Act 2003;
292. entering and inspecting premises, issuing fixed penalties and commencing legal proceedings in relation to smoking, in accordance with sections 1 to 10 of the Smoking, Health and Social Care (Scotland) Act 2005;
293. enforcing the safety provisions of the Motor Cycle Noise Act 1987;
294. enforcing the provisions of the Tobacco Advertising and Promotion Act 2002 in accordance with sections 13 and 14 of that act;
295. enforcing the duty to provide information on sale of houses, in accordance with sections 109 to 112 of the Housing (Scotland) Act 2006;
296. exercising the Council's enforcement functions in accordance with sections 25 and 26 of the Tobacco and Primary Medical Services (Scotland) Act 2010;
297. applying for tobacco retailing banning orders and ancillary orders in accordance with sections 15 to 19 of the Tobacco and Primary Medical Services (Scotland) Act 2010;

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298. issuing fixed penalty notices in accordance with section 27 of the Tobacco and Primary Medical Services (Scotland) Act 2010;
299. exercising the Council's powers of entry in accordance with sections 28 to 31 of the Tobacco and Primary Medical Services (Scotland) Act 2010;
300. exercising the Council's enforcement powers in relation to copyright infringement in accordance with sections 107A and 198A of the Copyright, Designs and Patents Act 1988;
301. exercising the Council's enforcement functions and powers under the Enterprise Act 2002;
302. dealing with the clean up of spills in accordance with the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998;
303. requiring the owner of a public building to execute works necessary to minimise the risk to the public in the event of danger in accordance with section 23 of the City of Edinburgh District Council Order Confirmation Act 1991;
304. requiring owners to carry out, or carrying out works to secure, restore or repair structures, fixtures, walls or fences that has become insecure, worn out, damaged or in need of repair, and recovering the costs of doing so, all in accordance with section 24 of the Edinburgh District Council Order Confirmation Act 1991;
305. giving notice to person requiring them to take steps to reduce the emission of dust in accordance with section 25 of the City of Edinburgh District Council Order Confirmation Act 1991;
306. serving notices in accordance with section 26 and in relation to sections 23 to 25 of the City of Edinburgh District Council Order Confirmation Act 1991;
307. cancelling and serving new notices under section 48 of the City of Edinburgh District Council Order Confirmation Act 1991;

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308. entering premises to perform the Council's functions under the City of Edinburgh District Council Order Confirmation Act 1991 in accordance with section 53 of that act;
309. executing works and recovering the costs of doing so where an owner or occupier fails to do so after being served notice to do so in accordance with section 57 of the City of Edinburgh District Council Order Confirmation Act 1991;

### **Parks and Greenspace**

310. approving in accordance with conditions considered appropriate to individual applications, and in accordance with Council Policy, all requests from organisations to make use of parks and recreational areas, subject to consultation with:
  - (a) the Convener or vice-Convener of the Transport and Environment Committee;
  - (b) the Festival and Events Champion;
  - (c) local ward Councillors;
  - (d) as appropriate, other Council service areas; and/or
  - (e) as appropriate, Lothian and Borders Police (or its successor) and other emergency services;
311. issuing felling orders for trees affected by Dutch Elm Disease (sections 3(1) (2) and (4) and 5(1) of the Plant Health Act 1967 and section 20 of the Agricultural (Miscellaneous Provisions) Act 1972 (B) and Dutch Elm Disease (Amendment) (Local Authorities) Order 1975);
312. creating, maintaining, enhancing and removing physical and natural assets within the Council's parks and greenspaces;
313. creating, maintaining, enhancing and removing trees and other landscape features managed by the Council;
314. implementing the provisions of the Council's Park Management Rules;
315. implementing the provisions of the Allotments (Scotland) Acts and administering the Council's allotment regulations;

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316. implementing the provisions of wildlife, nature, access and parks legislation, including:
  - (a) Countryside (Scotland) Act 1967;
  - (b) Wildlife and Countryside (Scotland) Act 1981;
  - (c) National Parks and Access to the Countryside Act 1949;
  - (d) Nature Conservation (Scotland) Act 2004;
  - (e) Wildlife and Natural Environment (Scotland) Act 2011; and
  - (f) Land Reform (Scotland) Act 2003;
317. drafting, managing and implementing Council approved policy and strategy that relates to parks and greenspace responsibilities;
318. managing the Council's Green Flag Award and other quality management programmes;
319. managing events and activities taking place within parks and greenspaces;

**Waste Services**

320. preparing specifications and award contracts for repairing and maintaining the Council's vehicles and plant fleet, and for buying replacements, all in accordance with the Contracts Standing Orders as amended from time to time;
321. discharging duties relating to the conduct of the Council's significant trading operations in accordance with section 10 of the Local Government in Scotland Act 2003;
322. specifying the level of services and other relevant details for providing waste management, street cleansing and refuse collection services;
323. negotiating variation orders for changes in the level of waste management, street cleansing and refuse collection services with approved contractors, within the contract prices approved by the Council;
324. setting the prices of trade waste services provided by the Council;

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325. exercising statutory duties, functions and enforcement under the legislation listed in Part B of Appendix 10 that relate to waste management;
326. carrying out the Council's waste management functions in accordance with its approved integrated waste management plan, and providing the Scottish Ministers upon request with a statement setting out whether the Council is carrying out such functions (section 44Z of the Environmental Protection Act 1990);
327. collecting household, commercial or industrial waste, (including, where applicable, issuing reasonable charges for doing so), and exercising the Council's other ancillary powers all in accordance with section 45 of the Environmental Protection Act 1990;
328. arranging for the provision of receptacles to enable separate collection of dry recyclable waste and food waste in accordance with section 45C of the Environmental Protection Act 1990;
329. serving notice on occupiers regarding the placing of waste for collection in receptacles in accordance with section 46 of the Environmental Protection Act 1990;
330. supplying receptacles for commercial or industrial waste, and making reasonable charges for doing so, in accordance with section 47 of the Environmental Protection Act 1990;
331. arranging for the disposal of waste collected, providing places at which to deposit waste before the Council transfers it, providing places at which to dispose of or recycle waste and permitting another person to use the facilities provided by the Council, all in accordance with section 53 of the Environmental Protection Act 1990;
332. ensuring that land occupied by the Council and used as a site in or on which to deposit, treat, keep or dispose of controlled waste is used and operated in accordance with certain conditions, in accordance with section 54 of the Environmental Protection Act 1990;
333. enabling waste to be recycled, used for the purpose of producing heat or electricity, buying or acquiring waste to be recycled and using,

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- selling or disposing of waste belonging to the authority in accordance with section 56 of the Environmental Protection Act 1990;
334. carrying out the Council's duties in response to directions issued by the Scottish Ministers, in accordance with sections 57 and 58 of the Environmental Protection Act 1990;
335. consenting to people sorting or disturbing anything deposited at a place for the deposit of waste or anything deposited in a receptacle for waste, in accordance with section 60 of the Environmental Protection Act 1990;
336. carrying out the Council's duties in response to regulations issued by the Scottish Ministers, in accordance with section 62 of the Environmental Protection Act 1990;
337. minimising the quantities of controlled waste in the Council's area and contributing towards the expenses of doing so, in accordance with section 63A of the Environmental Protection Act 1990;
338. exercising the power to require any person to furnish information in accordance with section 71 of the Environmental Protection Act 1990;
339. participating in legal proceedings in accordance with section 73 of the Environmental Protection Act 1990;
340. carrying out the Council's duties in relation to keeping roads clear of litter and refuse in accordance with section 89 of the Environmental Protection Act 1990;
341. participating in legal proceedings arising from a person complaining that he is aggrieved by the defacement, by litter or refuse, of road or land in accordance with section 91 of the Environmental Protection Act 1990;
342. giving notice under section 99 of the Environmental Protection Act 1990 that the Council has resolved to use the powers to seize and remove shopping trolleys, and exercising such powers under Schedule 4 of that act;
343. approving applications for waste action grants where the grant does not exceed £2,500;

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### **Building Standards**

344. submitting comments on relaxation applications determined by the Scottish Ministers;
345. signing certificates of evidence in relation to Sheriff Court procedures involving offences in terms of sections 8(2) and 21(5) of the Building (Scotland) Act 2003;
346. undertaking building standards assessments under section 6 of the Building (Scotland) Act 2003;
347. deciding on completion certificate submissions under section 18 of the Building (Scotland) Act 2003;
348. deciding on application under section 21(3) of the Building (Scotland) Act 2003 for a building to be temporarily occupied or used before a completion certificate under section 18 has been accepted;
349. deciding on the imposition of a continuing requirement in terms of section 22 of the Building (Scotland) Act 2003;
350. deciding on the discharge or variation of a continuing requirement in terms of section 23 of the Building (Scotland) Act 2003;
351. maintaining and administering a building standards register in terms of section 24 of the Building (Scotland) Act 2003;
352. serving enforcement notices in terms of sections 25, 26, 27, 28, 29, 30 and 42 of the Building (Scotland) Act 2003 and carrying out all consequential enforcement procedures;
353. signing certificates which certify the reason why occupants need to remove from a property as required by a notice under section 42 of the Building (Scotland) Act 2003;
354. processing section 50 certificates in relation to Building Standards in terms of the Licensing (Scotland) Act 2005;
355. granting or refusing applications for building warrants, amendments to warrants and extensions to the periods of validity of building warrants;

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### **Floods, Reservoirs and Coasts**

356. preparing, reviewing, updating and making available for inspection maps of relevant bodies of water and sustainable urban drainage systems (section 17 of the Flood Risk Management (Scotland) Act 2009);
357. assessing relevant bodies of water (other than canals) for the purpose of ascertaining whether the condition of any such body of water gives rise to a risk of flooding of land prepare schedules of inspection, clearance and repair works (section 18 of the Flood Risk Management (Scotland) Act 2009);
358. preparing maps and responding to the Scottish Environmental Protection Agency ("SEPA") in accordance with section 19 of the Flood Risk Management (Scotland) Act 2009;
359. responding to consultations with SEPA in accordance with section 29 of the Flood Risk Management (Scotland) Act 2009 on the setting objectives and identification of measures under sections 27 and 29 of the Flood Risk Management (Scotland) Act 2009;
360. responding to consultations by SEPA in accordance with section 30(4)(c) of the Flood Risk Management (Scotland) Act 2009;
361. preparing local flood risk management plans to supplement the relevant flood risk management plan in accordance with section 34 of the Flood Risk Management (Scotland) Act 2009;
362. publishing a "draft supplementary part" of the local flood risk management plan as lead local authority in accordance with section 35 of the Flood Risk Management (Scotland) Act 2009 subject to the draft supplementary part being approved by Council or Committee;
363. responding to consultation by a lead local authority on the "draft supplementary part" of the local flood risk management plan in accordance with section 35 of the Flood Risk Management (Scotland) Act 2009;
364. publishing the local flood risk management plan as lead local authority in accordance with section 36(5) of the Flood Risk Management

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(Scotland) Act 2009 subject to the local flood risk management plan being approved by Council or Committee;

365. responding to consultation by a lead local authority on the finalising, publishing and reviewing of the local flood risk management plan in accordance with section 36 of the Flood Risk Management (Scotland) Act 2009;
366. reviewing the local flood risk management plan and, subject to Council or Committee approval, publish a report on the conclusions of the review in accordance with section 37 of the Flood Risk Management (Scotland) Act 2009;
367. publishing final reports in relation to the local flood risk management plan in accordance with section 38 of the Flood Risk Management (Scotland) Act 2009 subject to Council or Committee approval;
368. taking steps to co-operate with other local authorities where a local plan district covers more than one local authority's area with a view to assisting the preparation and review of the local flood risk management plan and the preparation of relevant reports in accordance with section 39 of the Flood Risk Management (Scotland) Act 2009;
369. taking steps to ensure the Council has regard to flood risk management plans in accordance with section 41 of the Flood Risk Management (Scotland) Act 2009;
370. providing SEPA and lead authorities with information and assistance in accordance with sections 43, 44, 45 and 46 of the Flood Risk Management (Scotland) Act 2009;
371. taking steps to secure appropriate consistence in the information contained in the plan with information contained in characterisations of river basin districts and river basin management plans in accordance with section 48(3) of the Flood Risk Management (Scotland) Act 2009;
372. sitting on the flood risk advisory group (section 49) and sub-district flood risk advisory group (section 50) on behalf of the Council in accordance with the Flood Risk Management (Scotland) Act 2009;

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373. taking steps to do anything which (a) will contribute to the implementation of current measures described in any relevant local flood risk management plan, (b) is necessary to reduce the risk of a flood in the Council's area which is likely to occur imminently and have serious consequences for human health, the environment, cultural heritage or economic activity, or (c) will otherwise manage flood risk in the Council's area without affecting the implementation of the measures described in any relevant local flood risk management plan, all in accordance with sections 56, 57 and 58 of the Flood Risk Management (Scotland) Act 2009;
374. carrying out works which the Council has a duty to carry out under section 59 of the Flood Risk Management (Scotland) Act 2009;
375. responding to consultation by the Scottish Ministers on flood protection schemes (section 60(5) of the Flood Risk Management (Scotland) Act 2009;
376. giving notice of proposed flood protection schemes, and making copies of proposed flood protections schemes available for public inspection, in accordance with Schedule 2, Paragraphs 1 and 2 of the Flood Risk Management (Scotland) Act 2009;
377. confirming or rejecting proposed flood protections schemes (where there have been no objections received following notice to the public) in accordance with Schedule 2, Paragraph 4 of the Flood Risk Management (Scotland) Act 2009;
378. keeping registers of flood protections schemes in accordance with sections 62 and 63 of the Flood Risk Management (Scotland) Act 2009;
379. recovering expenses incurred from owners and occupiers of land if such expense is as a result of the actions of such owner or occupier in accordance with section 67 of the Flood Risk Management (Scotland) Act 2009;
380. responding to consultations on flood warnings in accordance with section 77 of the Flood Risk Management (Scotland) Act 2009;
381. entering into land for the purposes of section 79(2)(a) to (i) of the Flood Risk Management (Scotland) Act 2009;

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382. serving notice of right of entry in accordance with section 81 of the Flood Risk Management (Scotland) Act 2009;
383. paying compensation to persons who have sustained damage in accordance with sections 82 and 83 of the Flood Risk Management (Scotland) Act 2009;
384. assisting SEPA with transitional arrangements in accordance with section 85 of the Flood Risk Management (Scotland) Act 2009;
385. reporting incidents occurring at reservoirs in accordance with section 88 of the Flood Risk Management (Scotland) Act 2009;
386. discharging the duty to consider the environmental impact of a proposed flood protections scheme in accordance with Part II of the Flood Risk Management (Flood Protection Scheme, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;
387. offering relevant objectors (within the meaning of Paragraph 5(4) of Schedule 2 of the Flood Risk Management (Scotland) Act 2009) the opportunity to withdraw the objection in accordance with section 13 of the Flood Risk Management (Flood Protection Scheme, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;
388. requesting the Scottish Ministers to direct planning permission for any development described in a flood protection scheme in accordance with section 14 of the Flood Risk Management (Flood Protection Scheme, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;
389. serving notices or other documents to be sent, served or given under the Flood Risk Management (Flood Protection Scheme, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010 or the Flood Risk Management (Scotland) Act 2009 in accordance with section 15 of the Flood Risk Management (Scotland) Act 2009;
390. in relation to the Braid Burn flood prevention scheme and the Water of Leith prevention scheme (which were confirmed under the Flood Prevention (Scotland) Act 1961) carrying out the powers and duties of

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the Council, including paying compensation under section 11 of the Flood Prevention (Scotland) Act 1961;

391. exercising the duties and powers of the enforcement authority and all duties of the reservoir undertaker (with respect to all reservoirs owned by the Council) under the Reservoirs Act 1975;
392. exercising the duties and powers of the Council in accordance with the Reservoirs (Scotland) Act 2011; and
393. carrying out the duties and powers of the coast protection authority in accordance with the Coast Protection Act 1949.

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**APPENDIX 7**  
**HEAD OF PLANNING**

These are the functions referred to in paragraph 10 of the Scheme:

**Planning policy**

1. responding directly to consultations on development plans, [planning applications](#), [environmental assessments](#) and planning guidance from neighbouring authorities at any stage in the process unless the Head of Planning considers that:
  - (a) the consultation raises a significant planning issue (which may include transport and other infrastructure matters) for the Council which should be draw to the attention of the consulting authority;
  - (b) the consultation raises a matter which is potentially controversial or likely to be of significant public interest; or
  - (c) the Council should formally object to a proposed development plan;
2. responding directly to planning related consultations from the Scottish Government and Government Agencies unless the Head of Planning considers that:
  - (a) the consultation raises a significant planning issue for the Council which should be drawn to the attention of the Scottish Government/Government Agency; or
  - (b) the consultation raises a matter which is potentially controversial or likely to be of significant public interest;
3. determining whether a qualifying plan, programme or strategy, which is being prepared or modified, requires environmental assessment in accordance with the Environmental Assessment (Scotland) Act 2005 and to undertake environmental assessment where necessary, including preparing an environmental report and carrying out consultations;

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**Planning applications etc.**

4. determining applications (including retrospective applications) for planning permission, listed building consent, conservation area consent, non-material variations and consent to display an advertisement, provided that:
  - (a) the decision is in accordance with the statutory development plan (Structure Plan and Local Plan);
  - (b) the decision is in accordance with non-statutory Council adopted policy, or infringements of policy are so minor that refusal or amendment would be unjustified;
  - (c) conditions added by the relevant Committee are not removed or amended;
  - (d) where approval is recommended, not more than six material objections have been received from third parties;
  - (e) where refusal is recommended, not more than six material representations in support of the proposals have been received from third parties;
  - (f) the application does not fall within the definition of national developments as set out in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
  - (g) where the application falls within the definition of local development as set out in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 but is not subject to the terms of the Council's statutory scheme of delegation for local developments;
  - (h) there is no legal agreement required in connection with the application where the financial value of the matters secured in the agreement will be in excess of, or estimated to be in excess of, £250,000, or where by virtue of any policy or non-statutory guidance on developer contributions there is a requirement to be met and, for whatever reason, that requirement is not being fully met;

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- (i) no elected member has requested referral of the application to the Development Management Sub-Committee for material planning reasons, within 21 days, as set out in the relevant guidance note for elected members;
  - (j) the application is not submitted by, or on behalf of, the Council (except for the approval of routine minor developments);
  - (k) the application is not submitted by, or on behalf of, an elected member of the Council or by his/her partner, close friend or relative;
  - (l) the application is not submitted by, or on behalf of, an officer involved in the statutory planning process, or by their partner, close friend or relative;
  - (m) the application is not for Hazardous Substance Consent;
  - (n) the Head of Planning does not consider the application to be controversial or of significant public interest, or as having a significant impact on the environment; and
  - (o) the application does not meet the criteria approved by the Planning Committee for a hearing by the Development Management Sub-Committee;
5. determining applications for certificates of lawful use or lawful development under sections 150 and 151 of the Town and Country Planning (Scotland) Act 1997 and applications for certificates of appropriate alternative development, provided that:
- (a) the applications does not raise a significant planning matter, leading to advice to refuse or to object;
  - (b) the Head of Planning does not consider the application to be potentially controversial, or likely to be of significant public interest, or as having a significant impact on the environment;

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- (c) the application does not fall within the definition of national developments as set out in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009;
  - (d) no elected member has requested referral of the application to the Development Management Sub-Committee for material planning reasons, within 21 days, as set out in the relevant guidance note for elected members;
  - (e) the application is not submitted by, or on behalf of, the Council (except for the approval of routine minor developments);
  - (f) the application is not submitted by, or on behalf of, an elected member of the Council or by his/her partner, close friend or relative;
  - (g) the application is not submitted by, or on behalf of, an officer involved in the statutory planning process, or by their partner, close friend or relative; and
  - (h) the application does not meet the criteria approved by the Planning Committee for a hearing by the Development Management Sub-Committee;
6. determining whether or not an application for planning permission will need to be accompanied by an Environmental Statement;
  7. issuing an opinion in respect of a Pre-Application Screening request;
  8. deciding whether the method of consultation is acceptable or more is needed in respect of a Proposal of Application Notice;
  9. deciding whether or not to decline to determine a repeat application for planning permission in any of the circumstances set out in Section 39 of the Town and Country Planning (Scotland) Act 1997;
  10. signing a processing agreement in respect of a major application as defined in the hierarchy of development;
  11. promoting a direction altering the duration of a planning consent;

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12. deciding whether or not full details of a proposed agricultural building require to be submitted;
13. deciding whether or not full details of a proposed forestry building require to be submitted;
14. deciding whether or not full details of proposed buildings by gas and electricity undertakings, solely for the protection of plant and machinery, are required;
15. deciding whether or not, in the case of proposed demolition of residential property, to require a formal submission;
16. deciding whether or not, in the case of proposed toll facilities on toll roads, to require a detailed submission;
17. determining painting and sundry minor works requiring permission by reason of an Article 4 Direction;
18. determining that alterations to a listed building do not require Listed Building Consent
19. determining whether works or a change of use constitute permitted development;
20. determining the display of advertisements;

**Enforcement action**

21. acting as proper officer in terms of the signing and service of decision notices, enforcement notices and related notices under section 193 of the Local Government (Scotland) Act 1973 and appointing appropriate officers to prepare, sign and serve such notices on his behalf;
22. initiating, progressing and concluding enforcement action, interdict action or direct action in connection with the following, provided that any significant case, or cases where it is in the public interest to do so, shall be reported to the Development Management Sub-Committee for consideration:
  - (a) Planning Contravention Notices;

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- (b) Enforcement Notices, including those relating to listed building and advertisements;
  - (c) advertisement discontinuation procedures;
  - (d) reporting to the procurator fiscal;
  - (e) Breach of Condition Notices;
  - (f) Amenity Notices;
  - (g) Stop Notices;
  - (h) Temporary Stop Notices;
  - (i) Fixed Penalty Notices;
  - (j) Hazardous Substances Contravention Notices;
  - (k) Tree Replacement Notices;
  - (l) prosecution in respect of the above as necessary and the giving of evidence in court; and
  - (m) powers of entry;
23. carrying out the following functions provided that any significant cases, or cases where it is in the public interest to do so, are reported to the Development Management Sub-Committee for consideration:
- (a) withdrawing, relaxing, or varying an enforcement notice (section 129 of the Town and Country Planning (Scotland) Act 1997);
  - (b) undertaking work required by an enforcement notice and recovering the costs (section 135 of the Town and Country Planning (Scotland) Act 1997);
  - (c) serving notices in case of compliance or non-compliance with planning consent (section 145 of the Town and Country Planning (Scotland) Act 1997);

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- (d) lodging an interdict restraining a breach of planning control to the Court of Session/Sheriff Court (section 146 of the Town and Country Planning (Scotland) Act 1997);
- (e) undertaking work required by non-compliance with a listed building enforcement notice (Town and Country Planning (Scotland) Act 1997 and section 38 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997);
- (f) serving section 270 Notices and Planning Contravention Notices;
- (g) determining whether or not it is expedient to take no further action in respect of a breach of control, having regard to the provisions of the development plan and other material planning considerations;
- (h) after the service of a notice, taking all necessary subsequent steps to bring the matter to an acceptable conclusion;
- (i) instituting any necessary action to remove or obliterate placards or posters which are displayed in contravention of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 and the Town and Country Planning (Scotland) Act 1997;
- (j) undertaking and enforcing the procedures requiring developers to inform the Council of the initiation and completion of developments and in relation to the display of notices indicating the development being carried out; and
- (k) issuing and enforcing notices requiring the owner of land, where planning permission has not been granted but development has been carried out, to make an application for planning permission;

### **Landscape**

- 24. making provisional Tree Preservation Orders (with the Planning Committee approving the final order taking into account objections or representations received);

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25. authorising the felling, pruning, topping, lopping of trees or the carrying out of other prohibited works to trees protected by Tree Preservation Orders (including the imposition of replanting conditions as appropriate);
26. authorising the felling, pruning, topping, lopping of trees or the carrying out of other prohibited works to trees in conservation areas;
27. serving, progressing, and concluding actions in respect of tree replacement notices, including any necessary follow up direct action;
28. investigating unauthorised works to protected trees and reporting offences to the Procurator Fiscal where considered appropriate;
29. considering and determining all applications in respect of high hedge notices, taking any subsequent enforcement or other action and exercising powers of entry and other supplementary powers in accordance with the High Hedges (Scotland) Act 2013 provided that any significant cases, or cases where it is in the public interest to do so, are reported to the Development Management Sub-Committee for consideration;

#### **Appeals**

30. determining what response should be made to the Directorate of Planning and Environmental Appeals in the case of appeals submitted in respect of the non-determination of an application and where the application could otherwise have been dealt with under delegated powers;

#### **Legal Agreements**

31. entering into a legal agreement with a developer, provided that:
  - (a) the agreement complies with the terms of government guidance, relevant development plan policies and supplementary guidance on developer contributions; and
  - (b) does not involve a financial sum or other contributions of a value exceeding £250,000;

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32. entering into a discharge of a legal agreement granting partial or full discharge of the relevant party's obligations on the due performance by that party of such obligations;
33. modifying a legal agreement with the relevant party provided that:
  - (a) the terms of the modifications comply with the terms of government guidance, relevant development plan policies and supplemental guidance on developer contributions; and
  - (b) it does not involve reducing the financial sum or other contributions in the legal agreement;

**Miscellaneous**

34. authorising Powers of Entry to land for any purpose (especially surveying) relating to the preparation of a development plan and general planning controls (sections 269 & 270 of the Town and Country Planning (Scotland) Act 1997);
35. allocating new street numbers and, in consultation with the appropriate local ward councillors, changing street numbers and naming new streets;
36. requiring proper maintenance of land affecting listed buildings or conservation areas and to undertake necessary work and recover costs in cases of non-compliance (sections 135 and 179 of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997); and

**Flooding**

37. requesting advice from SEPA as to flood risk under section 72 of the Flood Risk Management (Scotland) Act 2009.

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**APPENDIX 8**

**STATUTORY FUNCTIONS AND STATUTORY OFFICERS**

<u>Statutory Function</u>	<u>Legislation</u>	<u>Officer</u>
Agricultural Analyst/Depute Agricultural Analyst	section 67(3) of the Agriculture Act 1970	Environmental Health and Scientific Services Manager/ Scientific and Environmental Service Manager
Assessor	section 27 of the Local Government etc. (Scotland) Act 1994	Assessor of the Lothian Valuation Joint Board
Chief Inspector of Weights and Measures	section 72 of the Weights and Measures Act 1985	Licensing and Trading Standards Service Manager
Inspector of Weights and Measures	Section 72 of the Weights and Measures Act 1985	Certain officers appointed by the Chief Inspector of Weights and Measures from time to time.
Chief Social Work Officer	Social Work (Scotland) Act 1968	Chief Social Work Officer
Counting Officer	Parties, Elections and Referendums Act 2000	Chief Executive
Dog Catcher	section 149 of the Environmental Protection Act 1990	Dog Warden
Food Examiner	Section 30 of the Food Safety Act 1990	Environmental Health and Scientific Services Manager/ Scientific and Environmental Service Manager

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Appendix 8 – Statutory Functions and Statutory Officers

Head of Paid Service	section 4(1) of the Local Government and Housing Act 1989	Chief Executive
Mental Health Officers	section 32 of the Mental Health (Care and Treatment)(Scotland) act 2003	Certain social workers as appointed by the Chief Social Work Officer from time to time.
Monitoring Officer	section 5(1) of the Local Government and Housing Act 1989	Director of Corporate Governance
Public Analyst	sections 27 and 30 of the Food Safety Act 1990	Environmental Health and Scientific Services Manager/ Scientific and Environmental Service Manager
Registrar of Births, Deaths and Marriages	section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965	Chief Registrar
Returning Officer	Sections 25 and 41 of the Representation of the People Act 1983	Chief Executive

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**APPENDIX 9**  
**PROPER OFFICER FUNCTIONS**

<u>Proper Officer Function</u>	<u>Legislation</u>	<u>Officer</u>
Declaration of acceptance of office	section 33A of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Resignation of office by a member	section 34 of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Circulating reports and agendas, supplying papers to the press and, where necessary, providing summaries of minutes	sections 50B(2), 50B(7) and 50C(2) of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Compilation of background papers for inspection	section 50D of the Local Government (Scotland) Act 1973	All Directors
Members' rights of access to documents which enclose "exempt information"	section 50F(2) of the Local Government (Scotland) Act 1973	Chief Executive
Transfer of securities on alteration of area etc.	section 92 of the Local Government (Scotland) Act 1973	Director of Corporate Governance
Financial Administration	section 95 of the Local Government (Scotland) Act 1973	Head of Finance
Education endowments	section 128 of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Ordnance Survey	section 145 of the Local Government (Scotland) Act 1973	Director of Services for Communities

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Appendix 9 – Proper Officer Functions

Service of legal proceedings etc.	section 190 of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Claims in sequestrations and liquidations	section 191 of the Local Government (Scotland) Act 1973	Director of Corporate Governance
Authentication of documents and execution of deeds	sections 193 and 194 of the Local Government (Scotland) Act 1973 and the Requirements of Writing (Scotland) Act 2005	Director of Corporate Governance and Head of Legal, Risk and Compliance
Inspection and deposit of documents	section 197 of the Local Government (Scotland) Act 1973	Director of Corporate Governance and Head of Legal, Risk and Compliance
Procedure for byelaws	sections 202 and 204 of the Local Government (Scotland) Act 1973	Director of Corporate Governance and Head of Legal, Risk and Compliance
Roll of honorary freemen	section 206 of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Notice of Meeting	Schedule 7 of the Local Government (Scotland) Act 1973	Head of Legal, Risk and Compliance
Politically restricted posts	section 2 of the Local Government and Housing Act 1989	Director of Corporate Governance
Maintaining the register of members' interests	Regulation 6 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003	Head of Legal, Risk and Compliance

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**APPENDIX 10**  
**LIST OF LEGISLATION**

**Part A**

1. Animal Boarding Establishments Act 1963;
2. Animal Health and Welfare (Scotland) Act 2006;
3. Breeding of Dogs Act 1973;
4. Cinemas Act 1985;
5. City of Edinburgh District Council Order Confirmation Act 1991;
6. Civic Government (Scotland) Act 1982;
7. Dangerous Wild Animals Act 1976;
8. Housing (Scotland) Act 2006;
9. Performing Animals (Regulation) Act 1925;
10. Pet Animals Act 1951;
11. Petroleum (Transfer of Licences) Act 1936;
12. Riding Establishments Acts 1964 and 1970;
13. Theatres Act 1968; and
14. Zoo Licensing Act 1981.

**Part B**

1. Accommodation Agencies Act 1953;
2. Agriculture Produce (Grading and Marking) Acts 1928 and 1931;
3. Agriculture Act 1970;
4. Agriculture (Miscellaneous Provisions) Act 1968;
5. Animal Boarding Establishments Act 1963;
6. Animal Health Act 1981;

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Appendix 10 – List of Legislation

7. Animal Health and Welfare (Scotland) Act 2006;
8. Breeding and Sale of Dogs (Welfare) Act 1999;
9. Breeding of Dogs Act 1973 and 1991;
10. Burial Grounds (Scotland) Act 1855;
11. Children and Young Persons (Protection from Tobacco) Act 1991;
12. Church of Scotland (Property and Endowment) Act 1925;
13. Cinemas Act 1985;
14. Civic Government (Scotland) Act 1982;
15. Civil Partnership Act 2004;
16. Clean Air Act 1993;
17. Control of Dogs (Scotland) Act 2010;
18. Consumer Credit Act 1974;
19. Consumer Protection Act 1987;
20. Cremation Acts 1902 and 1952;
21. Cremation (Scotland) Amendment Regulations 2003;
22. Dangerous Wild Animals Act 1976;
23. Development of Tourism Act 1969 (sections 17 and 18);
24. Dog Fouling (Scotland) Act 2003;
25. Education Reform Act 1988 (section 215);
26. Energy Conservation Act 1981 (section 20);
27. Environment and Safety Information Act 1988;
28. Estate Agents Act 1979;
29. European Communities Act 1972 (section 2(2));
30. Explosives Act 1875 (sections 74 and 78);

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Appendix 10 – List of Legislation

31. Fair Trading Act 1973;
32. Food and Environment Protection Act 1985 (sections 19(1B) and (1C));
33. Hallmarking Act 1973;
34. Housing (Scotland) Act 1987, Parts IV, V, VII and VIII
35. International Health Regulations 2005;
36. Marriage (Approval of Places) (Scotland) Regulations 2002;
37. Marriage (Scotland) Act 1977;
38. Medicines Act 1968;
39. Performing Animals (Regulation) Act 1925;
40. Pet Animals Act 1951;
41. Petroleum (Consolidation) Act 1928 (section 17);
42. Poisons Act 1972;
43. Prevention of Damage by Pests Act 1949;
44. Prices Act 1974 and 1975;
45. Private Rented Housing (Scotland) Act 2011;
46. Property Misdescriptions Act 1991;
47. Public Health (Aircraft) (Scotland) Regulations 1971;
48. Public Health (Ships) (Scotland) Regulations 1971;
49. Rent (Scotland) Act 1984;
50. Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003);
51. Sewerage (Scotland) Act 1968;
52. Telecommunications Act 1984 (section 30);
53. Theatres Act 1968;

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Appendix 10 – List of Legislation

54. Timeshare Act 1992;
55. Trade Descriptions Act 1968;
56. Trade Marks Act 1994;
57. Video Recordings Acts 1984 and 1993;
58. Water (Scotland) Act 1980;
59. Water Services etc. (Scotland) Act 2005;
60. Weights and Measures Act 1985.

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