

# Policy and Sustainability Committee

10:00am, Tuesday, 29 March 2022

## Adoption of Chief Executive and Chief Officer Disciplinary Policy

Item number	
Executive/routine	Routine
Wards	All
Council Commitments	

### 1. Recommendations

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- 1.1 To recommend that the Council adopt and agree that the Scottish Joint Negotiating Committee (SJNC) Model Framework (the “Gold Book”) will apply where appropriate.
- 1.2 To agree to recommend that Council establish a Chief Official Personnel Assessment Committee and the Chief Official Personnel Hearing Committee.
- 1.3 To agree to recommend that Council adopt the revised Committee Terms of Reference and Delegated Functions as set out in appendix one and to request that Council delegate authority to the Chief Executive to make any minor amendments as required to implement the decision of Council.
- 1.4 To recommend that Council appoint one member each from the Conservative, SNP, Labour, Green and Liberal Democrats groups in line with the political balance of the Council, to the Chief Official Personnel Assessment Committee.
- 1.5 To recommend that Council appoint the convener of the Chief Official Personnel Assessment Committee.
- 1.6 To recommend that Council appoint one member each from the Conservative, SNP, Labour, Green and Liberal Democrats groups in line with the political balance of the Council, to the Chief Official Personnel Hearing Committee.
- 1.7 To recommend that Council appoint the convener of the Chief Official Personnel Hearing Committee.

- 1.8 To recommend that Council agree the Scheme of Delegation to Officers as set out in appendix two and delegate authority to the Chief Executive to make any minor amendments as required to implement the decision of Council.
- 1.9 To note the detail contained in appendix three – the Gold Book – ‘Scheme of salaries and conditions of service for Chief Officials’.

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# Report

## Adoption of Chief Executive and Chief Officer Disciplinary Policy

### 2. Executive Summary

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- 2.1 As a consequence of a recent review of the Council's HR policies and procedures, a gap has been identified in that the Council's Chief Executive and Chief Officer Disciplinary policy do not currently cover all circumstances.

### 3. Background

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- 3.1 The current Disciplinary Procedure for Heads of Department became effective on 28 July 1997.
- 3.2 The SJNC set out a model framework of governance with regard to the terms and conditions for Chief Executive Officers in 2014 (as set out in Appendix 3) and this has not been formally adopted by the Council.

### 4. Main report

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- 4.1 A review has indicated that certain of the Council's policies require to be updated and/or augmented to ensure there are disciplinary processes which cover all circumstances.
- 4.2 The SJNC developed the Gold Book in relation to Chief Executive Officers in 2014. It has not yet been formally adopted by this Council and it is proposed that this Committee agree that the Council now does so.
- 4.3 The Gold Book itself also details actions which require to be taken in certain circumstances and authority requires to be delegated in this regard should the policy or any part of it require to be invoked in any way.

#### **Application of the Gold Book**

- 4.4 When an allegation is made which involves the Chief Executive, an assessment committee will be convened. This committee would consider the allegations and potentially the observations from the Chief Executive and determine whether a formal investigation is required. The committee would

also determine whether suspension, on full pay, is appropriate in the circumstances. In the event of a formal investigation being instructed by the committee, the assessment committee will consider the report by the Investigating Officer and whether a hearing is required.

- 4.5 Committee is asked to recommend that Council add to the Scheme of Delegation to Officers the power to appoint an investigating officer to the Service Director HR and the Monitoring Officer, as directed by the assessment committee.
- 4.6 The Gold Book provides that if the assessment committee agrees that a disciplinary hearing is required, a separate committee should meet to consider this. The committee will consider the report by the investigating officer, hear from any relevant parties involved and ensure that a fair hearing is held on the allegations to ensure a reasonable decision can be made. This committee will have the authority to make a decision on whether allegations have been substantiated and what disciplinary action should be taken if required. The membership of this committee must be different from the membership of the assessment committee.
- 4.7 It is proposed that it is recommended to Council that the Personnel Appeals Committee's powers are extended to consider any appeals from chief officers including the Chief Executive.
- 4.8 The implementation of this policy would also require a change to the Council's terms of reference in that it would remove the reserved power of the Council to dismiss the Chief Executive. In addition to what is recommended by the SJNC policy, the Acas Code of Practice envisages that decisions should be made by the individuals who heard the case.
- 4.9 The remit and membership for both committees are set out in the Terms of Reference and Delegated Functions at appendix one and Committee is requested to recommend that Council create and appoint to the new committees.

#### **Amendment to 1997 Policy**

- 4.10 The 1997 Policy currently in force does not adequately deal with a situation where the Chief Executive, as Head of Paid Service, is unable, for any reason (for example conflict of interest) to take a decision or be part of a process in relation to any matter falling to be dealt with under that policy. In such circumstances the power vested in them is not able to be delegated and the matter will accordingly require to be dealt with by Elected Members.
- 4.11 Accordingly, to deal with all eventualities, it is proposed that Council is recommended to agree that the Gold Book terms and conditions will be used in relation to any Council officer to whom the 1997 Policy would normally apply but such a conflict exists and the 1997 Policy cannot therefore be fairly or practically followed. It is recommended that Council agree that a conflict

will be a situation where the Service Director HR or Monitoring Officer, in consultation with the Leader of the Council, determines that such a conflict exists.

- 4.12 Where Gold Book terms and conditions will be used in relation to any Council officer to whom the 1997 Policy would normally apply, it is intended that the right of appeal to the Joint Negotiating Committee (Scotland) as set out in the 1997 Policy will remain in place.

#### **Other matters**

- 4.13 The Gold Book terms will not be adopted in respect of those capability framework arrangements to be found within, given that adequate capability management arrangements for all Council staff are currently addressed within our existing Performance Management Policy.
- 4.14 Independent legal advice has sought in relation to the proposals set out in this report given the potential conflict of the Chief Officers authoring this report and the nature of the paper.

## **5. Next Steps**

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- 5.1 Recommendation of the adoption of the Gold Book by Council as set out in this report.
- 5.2 It is considered that the 1997 Policy requires to be updated and a wider review of this will take place and any further recommendations will be brought forward for approval in due course.

## **6. Financial impact**

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- 6.1 There is no material financial impact arising from this report.

## **7. Stakeholder/Community Impact**

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- 7.1 The proposals are compliant with the principles and recommended practice as set out in the relevant ACAS Code of Practice.
- 7.2 It is recognised that the changes proposed are an amendment to the 1997 Policy. Accordingly, the proposals set out in this report have been consulted upon with those affected and with the recognised Trade Unions.

## **8. Background reading/external references**

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- 8.1 Disciplinary Policy - <https://orb.edinburgh.gov.uk/downloads/file/57/disciplinary-procedure-for-heads-of-department>

## **9. Appendices**

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- 9.1 Appendix 1 – Revised Committee Terms of Reference and Delegated Functions
- 9.2 Appendix 2 – Revised Scheme of Delegation to Officers
- 9.3 Appendix 3 - 2014 Gold Book

**Appendix 1 – Revised Committee Terms of Reference and  
Delegated Functions**

**CITY OF EDINBURGH COUNCIL**

**COMMITTEE TERMS OF REFERENCE AND  
DELEGATED FUNCTIONS**

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## **COMMITTEE TERMS OF REFERENCE AND DELEGATED FUNCTIONS**

### **A. GENERAL**

These terms of reference and delegated functions ("**Committee Terms of Reference**") apply from 23 August 2019 and set out the powers delegated by the City of Edinburgh Council ("**Council**") to its committees and sub-committees ("**Committees**") pursuant to the Local Government (Scotland) Act 1973 (the "**Act**").

#### **1. Delegation to Committees**

- 1.1. Subject to law, to the provisions of these Committee Terms of Reference, and to any restriction, direction or instruction of Council, there shall be delegated to the respective Committees all the functions and matters contained in:

- 1.1.1. these Committee Terms of Reference;
- 1.1.2. any scheme made under the Act or statute; and
- 1.1.3. any minute of the Council making specific delegation to the Committee.

#### **2. Reserved matters**

- 2.1. The following matters are reserved to the Council:

- 2.1.1. all functions reserved by law to the Council;
- 2.1.2. determining the strategic objectives of the Council;
- 2.1.3. election of the Leader, Deputy Leader, Lord Provost, Depute Convener and Bailies;
- 2.1.4. appointment of committees of the Council, agreeing and/or amending their terms of reference and delegation of functions to them;
- 2.1.5. deciding the composition of committees of the Council and appointment of members to serve on them, including external members;
- 2.1.6. appointment of members to serve on joint committees, joint boards and any outside body;
- 2.1.7. making, amending, revoking, re-enacting or adopting standing orders and Committee Terms of Reference and Delegated Functions;
- 2.1.8. approving or amending any scheme of delegation to officers;
- 2.1.9. the annual review of the revenue budget and the fixing of council tax;
- 2.1.10. the annual review of the capital investment programme and approval of any capital project with a value exceeding £50,000, not included in the capital investment programme;

- 2.1.11. any material expenditure which is not included in the annual revenue budget;
- 2.1.12. setting of special responsibility allowances;
- 2.1.13. making, amending, revoking, re-enacting or adopting, bye-laws, schemes, regulations or rules made under statute subject to confirmation by Scottish Ministers where applicable;
- 2.1.14. the formal adoption of Local Development Plans;
- 2.1.15. the approval of a Proposed Strategic Development Plan and the delegation of authority to the strategic development planning authority (SESplan);
- 2.1.16. appointment of a chief official including the Chief Executive;
- 2.1.17. any decision in relation to any proposal to delegate a power or duty to or accept a delegated power from any other local authority or to co-operate or combine with any other local authority in providing services;
- 2.1.18. promoting or opposing the making of local legislation;
- 2.1.19. creation of Council companies;
- 2.1.20. the preparation and review of the Scheme for Community Councils (Special Meeting);
- 2.1.21. amendments to the Treasury Policy Statement, and
- 2.1.22. approval of the annual Treasury Strategy and annual treasury management performance.

### **3. Committee Membership**

- 3.1 Committee membership will be proportionate according to the elected representation of political parties unless expressly agreed otherwise at a meeting of the full Council.

### **4. Urgent decisions**

- 4.1. If a decision which would normally be made by the Council or a Committee requires to be made urgently between meetings of the Council or Committee, the Chief Executive or appropriate Executive 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 Committee.

### **5. Substitutes**

- 5.1. Where permitted by law and where specified in these Committee Terms of Reference, a member may, subject to paragraph 5.2 below appoint a substitute member from his or her political group to attend a meeting of the committee in his or her place, by email to the Clerk in advance of the meeting.

- 5.2. Any member proposed to be appointed as a substitute must, where specified in these Committee Terms of Reference, have completed the appropriate training for the committee concerned.
- 5.3. The substitute member will be a member of the committee for that meeting and will be entitled to take part in the meeting with the full powers, duties and responsibilities of a member.

## **6. Convener of Sub-Committee**

- 6.1. The Convener of a sub-committee will be appointed by its parent committee.

## **B. COMMITTEE TERMS OF REFERENCE AND DELEGATED POWERS**

### **Executive Committees**

#### **1. Policy and Sustainability Committee**

**1.1. Constitution:** 17 Members of the Council including:

- 1.1.1. 5 SNP
- 1.1.2. 5 Conservative
- 1.1.3. 3 Labour
- 1.1.4. 2 Green
- 1.1.5. 2 SLD

#### **Convener and Vice-Convener**

- 1.2. The Leader of the Council will be the Convener of the Policy and Sustainability Committee.
- 1.3. The Deputy Leader of the Council will be the Vice-Convener of the Policy and Sustainability Committee.

#### **Quorum**

- 1.4. Six members of the Policy and Sustainability Committee will constitute a quorum.

#### **Substitution**

- 1.5. Substitutes are permitted.

#### **Delegated functions**

- 1.6. Power is delegated to the Policy and Sustainability Committee to:
  - 1.6.1. advise the Council on outcomes, strategic objectives and key priorities;
  - 1.6.2. develop and approve Council policies, including reform, smart city, human resources, community planning and partnership working;
  - 1.6.3. adopt and implement the management framework for planning, implementing, reporting and reviewing Council service delivery;
  - 1.6.4. ensure the Council meets its statutory responsibilities in terms of best value;
  - 1.6.5. ensure the Council meets its statutory responsibilities in terms of diversity and equalities;
  - 1.6.6. monitor implementation of the Council's business and service development plans, corporate strategies, change programmes, corporate initiatives and service reviews;

- 1.6.7. facilitate and encourage public participation and empowerment ensuring the involvement of citizens, the community, neighbourhood networks, partners and key stakeholders in the committee decision-making process;
- 1.6.8. instruct such performance information as the committee requires to fulfil its remit and monitor overall performance in the delivery of services and the Council's financial performance;
- 1.6.9. set and monitor all relevant grants programmes and award grants;
- 1.6.10. provide scrutiny of those services delegated to the Integration Joint Board. This should include scrutiny of internal controls, performance, quality and compliance with the law;
- 1.6.11. determine any reviews of community asset transfer requests;
- 1.6.12. provide oversight and take decisions on the adaptation and renewal programme;
- 1.6.13. provide oversight and take decisions on matters relating to sustainability and climate change;
- 1.6.14. provide oversight and take decisions on major economic policy and strategy and significant cross-cutting regeneration projects;
- 1.6.15. provide strategic oversight of Edinburgh City Region Deal;
- 1.6.16. advise, agree, scrutinise and review Edinburgh Police and Fire and Rescue Service city-wide plans, policies and performance;
- 1.6.17. consider petitions addressed to the City of Edinburgh Council on matters within the remit of committee, in accordance with the Council's approved Petitions procedure and determine the appropriate action;
- 1.6.18. determine differences between committees except where the difference involves a decision on an individual planning or licensing application; and
- 1.6.19. take all decisions which are not reserved to the Council or delegated to another committee of the Council.

## **2. Culture and Communities Committee**

2.1. **Constitution:** 11 members of the Council as follows:

- 2.1.1. 3 SNP
- 2.1.2. 3 Conservative
- 2.1.3. 2 Labour
- 2.1.4. 2 Green
- 2.1.5. 1 SLD

### **Convener and Vice Convener**

2.2. The Convener and Vice Convener will be members of the City of Edinburgh Council.

### **Quorum**

2.3. Four members will constitute a quorum.

### **Substitution**

2.4. Substitutes are permitted.

### **Delegated functions**

2.5. Power is delegated to the Culture and Communities Committee in relation to the matters listed in paragraph 2.6, to:

- 2.5.1. develop and approve policies, strategies, programmes and projects and work with officers, communities and partners to implement them;
- 2.5.2. take all decisions which are not reserved to the Council or delegated to another committee of the Council;
- 2.5.3. set standards for service delivery and secure value for money;
- 2.5.4. set and monitor corporate standards, consider the necessity of existing service provisions and agree new service proposals;
- 2.5.5. monitor performance, including financial, instructing such performance information as the committee requires to fulfil its remit;
- 2.5.6. monitor arrangements to ensure best value and continuous improvement across all services;
- 2.5.7. facilitate and encourage public, engagement, consultation, participation and feedback;
- 2.5.8. set and monitor all relevant grants programmes and award grants;
- 2.5.9. consider petitions addressed to the City of Edinburgh Council on matters within the remit of committee, in accordance with the Council's

approved Petitions procedure and determine the appropriate action to be taken;

2.5.10. review the impact of the committee's policies on the city.

2.6. The matters referred to in paragraph 2.5 are as follows:

- 2.6.1. Community Justice;
- 2.6.2. community safety
- 2.6.3. health except those matters delegated to another committee or the Integration Joint Board;
- 2.6.4. Cultural development, festivals and events;
- 2.6.5. Sport and Recreation;
- 2.6.6. Arts and museums;
- 2.6.7. Libraries and community centres;
- 2.6.8. Parks and green spaces;
- 2.6.9. community and locality planning
- 2.6.10. community empowerment; and
- 2.6.11. Community Councils.

### **3. Education, Children and Families Committee**

3.1. **Constitution:** 11 members of the Council as follows:

- 3.1.1. 3 SNP
- 3.1.2. 3 Conservative
- 3.1.3. 2 Labour
- 3.1.4. 2 Green
- 3.1.5. 1 SLD

Additional members for education items:

- 3.1.6. 3 Religious Representatives
- 3.1.7. 1 Parent Representative (non-voting)

#### **Convener and Vice Convener**

3.2. The Convener and Vice Convener will be members of the City of Edinburgh Council.

#### **Quorum**

3.3. Four members will constitute a quorum except in the case of education business where five members will constitute a quorum.

#### **Substitution**

3.4. Substitutes are permitted for all members of the Council.

#### **Delegated functions**

3.5. Power is delegated to the Education, Children and Families Committee to:

- 3.5.1. exercise all the functions of the Council as education authority (education business), within the terms of the relevant legislation; and
- 3.5.2. exercise the functions as social work authority, within the terms of the relevant legislation, in relation to children.
- 3.6. In addition, in relation to the matters listed in paragraph 3.7, to:
  - 3.6.1. develop and approve policies, strategies, programmes and projects and work with officers, communities and partners to implement them;
  - 3.6.2. take all decisions which are not reserved to the Council or delegated to another committee of the Council;
  - 3.6.3. set standards for service delivery and secure value for money;
  - 3.6.4. set and monitor corporate standards, consider the necessity of existing service provisions and agree new service proposals.
  - 3.6.5. monitor performance, including financial, instructing such performance information as the committee requires to fulfil its remit;
  - 3.6.6. monitor arrangements to ensure best value and continuous improvement across all services;
  - 3.6.7. facilitate and encourage public, engagement, consultation, participation and feedback;
  - 3.6.8. set and monitor all relevant grants programmes and award grants;
  - 3.6.9. consider petitions addressed to the City of Edinburgh Council on matters within the remit of committee, in accordance with the Council's approved Petitions procedure and determine the appropriate action; and
  - 3.6.10. review the impact of the committee's policies on the city.
- 3.7. The matters referred to in paragraph 3.6 are as follows:
  - 3.7.1. the Council's education, children and families services;
  - 3.7.2. Lifelong Learning; and
  - 3.7.3. major capital programmes or projects implementation, asset planning and facilities management for the Council's education, children and families services.

#### **4. Finance and Resources Committee**

- 4.1. **Constitution:** 11 members of the Council as follows:
  - 4.1.1. 3 SNP
  - 4.1.2. 3 Conservative
  - 4.1.3. 2 Labour



4.1.4. 2 Green

4.1.5. 1 SLD

### **Convener and Vice Convener**

- 4.2. The Convener and Vice Convener will be members of the City of Edinburgh Council.

### **Quorum**

- 4.3. Four members will constitute a quorum.

### **Substitution**

- 4.4. Substitutes are permitted.

### **Delegated functions**

- 4.5. Power is delegated to the Finance and Resources Committee in relation to matters listed in paragraph 4.6 to:

- 4.5.1. develop and approve policies, strategies, programmes and projects and work with officers, communities and partners to implement them;
- 4.5.2. take all decisions which are not reserved to the Council or delegated to another committee of the Council;
- 4.5.3. set standards for service delivery and secure value for money;
- 4.5.4. set and monitor corporate standards, consider the necessity of existing service provisions and agree new service proposals;
- 4.5.5. monitor performance, including financial, instructing such performance information as the committee requires to fulfil its remit;
- 4.5.6. monitor arrangements to ensure best value and continuous improvement across all services;
- 4.5.7. facilitate and encourage public engagement, consultation, participation and feedback;
- 4.5.8. set and monitor all relevant grants programmes and award grants;
- 4.5.9. consider petitions addressed to the City of Edinburgh Council on matters within the remit of committee, in accordance with the Council's approved Petitions procedure and determine the appropriate action to be taken; and
- 4.5.10. review the impact of the committee's policies on the city.

- 4.6. The matters referred to in paragraph 4.5 are as follows:

- 4.6.1. Council's revenue and capital budgets;

- 4.6.2. Council's expenditure and budget policy;
- 4.6.3. Monitoring the Council's Treasury Management policies and practices;
- 4.6.4. Council's long term financial plan;
- 4.6.5. Procurement and contracts;
- 4.6.6. monitoring of Council debt and debt recovery;
- 4.6.7. Common Good Fund;
- 4.6.8. human resources (not including policy);
- 4.6.9. ICT
- 4.6.10. Disposal and development of Council owned property and land transactions;
- 4.6.11. All charitable and other trust funds vested in the Council except where the Council has expressly made other arrangements.

## **5. Housing, Homelessness and Fair Work Committee**

- 5.1. **Constitution:** 11 members of the Council as follows:

- 5.1.1. 3 SNP
- 5.1.2. 3 Conservative
- 5.1.3. 2 Labour
- 5.1.4. 2 Green
- 5.1.5. 1 SLD

### **Convener and Vice Convener**

- 5.2. The Convener and Vice Convener will be members of the City of Edinburgh Council.

### **Quorum**

- 5.3. Four members will constitute a quorum.

### **Substitution**

- 5.4. Substitutes are permitted.

### **Delegated functions**

- 5.5. Power is delegated to the Housing, Homelessness and Fair Work Committee in relation to matters listed in paragraph 5.6 to:

- 5.5.1. develop and approve policies, strategies, programmes and projects and work with officers, communities and partners to implement them;

- 5.5.2. take all decisions which are not reserved to the Council or delegated to another committee of the Council;
  - 5.5.3. set standards for service delivery and secure value for money;
  - 5.5.4. set and monitor corporate standards, consider the necessity of existing service provisions and agree new service proposals;
  - 5.5.5. monitor performance, including financial, instructing such performance information as the committee requires to fulfil its remit;
  - 5.5.6. monitor arrangements to ensure best value and continuous improvement across all services;
  - 5.5.7. facilitate and encourage public, engagement, consultation, participation and feedback;
  - 5.5.8. set and monitor all relevant grants programmes and award grants
  - 5.5.9. consider petitions addressed to the City of Edinburgh Council on matters within the remit of committee, in accordance with the Council's approved Petitions procedure and determine the appropriate action to be taken;
  - 5.5.10. review the impact of the committee's policies on the city.
- 5.6. The matters referred to in paragraph 5.5 are as follows:
- 5.6.1. Housing;
  - 5.6.2. Homelessness and housing support;
  - 5.6.3. Employability and fair work;
  - 5.6.4. Economic development projects and policies that are not reserved to the Policy and Sustainability Committee;
  - 5.6.5. External relations and inward investment; and
  - 5.6.6. Inclusive growth.

## **6. Transport and Environment Committee**

- 6.1. **Constitution:** 11 members of the Council as follows:

- 6.1.1. 3 SNP
- 6.1.2. 3 Conservative
- 6.1.3. 2 Labour
- 6.1.4. 2 Green
- 6.1.5. 1 SLD

### **Convener and Vice Convener**

- 6.2. The Convener and Vice Convener will be members of the City of Edinburgh Council.

### **Quorum**

- 6.3. Four members will constitute a quorum.

### **Substitution**

- 6.4. Substitutes are permitted.

### **Delegated functions**

- 6.5. Power is delegated to the Transport and Environment Committee in relation to the matters listed in paragraph 6.6, to:

- 6.5.1. develop and approve policies, strategies, programmes and projects and work with officers, communities and partners to implement them;
- 6.5.2. take all decisions which are not reserved to the Council or delegated to another committee of the Council or officers;
- 6.5.3. set standards for service delivery and secure value for money;
- 6.5.4. set and monitor corporate standards, consider the necessity of existing service provisions and agree new service proposals;
- 6.5.5. monitor performance, including financial, instructing such performance information as the committee requires to fulfil its remit;
- 6.5.6. monitor arrangements to ensure best value and continuous improvement across all services;
- 6.5.7. facilitate and encourage public, engagement, consultation, participation and feedback;
- 6.5.8. set and monitor all relevant grants programmes and award grants;
- 6.5.9. consider petitions addressed to the City of Edinburgh Council on matters within the remit of committee, in accordance with the Council's approved Petitions procedure and determine the appropriate action to be taken;
- 6.5.10. review the impact of the committee's policies on the city.

- 6.6. The matters referred to in paragraph 6.5 are as follows:

- 6.6.1. Strategic Transport Planning;
- 6.6.2. Traffic management, roads and parking;
- 6.6.3. Public transport;
- 6.6.4. Public Realm Projects;
- 6.6.5. Flood prevention;
- 6.6.6. Waste services;
- 6.6.7. Environmental health and trading standards; and
- 6.6.8. Street cleaning and open space maintenance.

## **7. Governance, Risk and Best Value Committee**

7.1. **Constitution:** 11 members of the Council as follows:

- 7.1.1. 3 SNP
- 7.1.2. 3 Conservative
- 7.1.3. 2 Labour
- 7.1.4. 2 Green
- 7.1.5. 1 SLD

### **Convener**

7.2. The Convener of the committee will be a member of the opposition.

7.3. The Conveners and Vice Conveners of the following Committees shall not be eligible to serve as members of the Governance, Risk and Best Value Committee:

- 7.3.1 The Policy and Sustainability Committee;
- 7.3.2 The Culture and Communities Committee;
- 7.3.3 The Education, Children and Families Committee;
- 7.3.4 The Finance and Resources Committee;
- 7.3.5 The Housing, Homelessness and Fair Work Committee; and
- 7.3.6 The Transport and Environment Committee.

### **Quorum**

7.3. Four members of the Governance, Risk and Best Value Committee will constitute a quorum.

### **Substitution**

7.4. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Chief Executive.

### **Delegated functions**

7.5. Power is delegated to the Governance, Risk and Best Value Committee to exercise the following functions:

7.5.1. To monitor the financial performance of the Council and its subsidiary undertakings, the effectiveness of the Council's audit and inspection, risk management and governance arrangements and of the control environment of the Council and associated anti-fraud and anti-corruption arrangements; including:

7.5.2. Scrutinising information on:

- (a) Council Budgets;

- (b) Management of Council assets;
  - (c) The Council's Treasury Management strategy and policies;
  - (d) Control, monitoring and review of income and expenditure, both revenue and capital;
  - (e) Council subsidiaries ;
  - (f) Council Companies (excluding those associated with the pension fund);
  - (g) Children's Panel; and
  - (h) Common Good Fund.
- 7.5.3. Monitoring the annual audit plan and reviewing all Council audit and inspection work against the plan.
- 7.5.4. Receiving and considering summaries of internal and external audit reports which relate to any issue falling within the remit of this committee.
- 7.5.5. Monitoring internal controls, corporate risk management and key operational governance areas.
- 7.6. Scrutiny on a specific issue should follow a committee decision.
- 7.7. To instruct a report on any matter within the remit of an executive committee but where a decision is yet to be taken; the report as instructed will initially be considered by the executive committee.
- 7.8. Referring back to the appropriate Executive Committee for its consideration any financial performance issue, which might have implications for policy development within the remit of the Executive Committee
- 7.9. To scrutinise the operational performance of all council services and Council subsidiaries in relation to the Council's agreed pledges, outcomes, policy objectives and statutory performance targets, including:
- 7.9.1. considering information that relate to issues falling within the remit of Council services, including complaints handling, customer care and ombudsman reports;
  - 7.9.2. monitoring employment, organisational development and equalities issues as they relate to the operation of the council corporately and to its individual services; and
  - 7.9.3. scrutinising major projects and programmes, service reviews and transformational change.

- 7.10. To invite Conveners or Vice-Conveners to attend committee, and where appropriate, to question and hold them to account on the operational or financial performance of any service area falling within their remit.
- 7.11. To refer back to the appropriate Executive Committee for its consideration any service performance issues that might have implications for policy development coming within the remit of the Executive Committee
- 7.12. To initiate and undertake planned scrutiny reviews of any matter falling within the remit of this committee or specific scrutiny reviews requested by an Executive Committee.
- 7.13. To promote the observance by Councillors of high standards of conduct and assist them in observing the code of conduct, in accordance with any guidance issued by the Standards Commission for Scotland.
- 7.14. To report, as required, on any matter within the committee's remit to Council.

### **Other Committees**

#### **8. Chief Official Personnel Assessment Committee**

- 8.1. **Constitution:** 5 members of the Council as follows:

- 8.1.1. 1 SNP
- 8.1.2. 1 Conservative
- 8.1.3. 1 Labour
- 8.1.4. 1 Green
- 8.1.5. 1 SLD

- 8.2. A member of this Committee can not be a member of the Chief Official Personnel Hearing Committee or the Personnel Appeals Committee. Councillors must have undertaken and completed appropriate training specified by the Head of Human Resources.

#### **Convener**

- 8.3. The Convener will be a member of the City of Edinburgh Council.

#### **Quorum**

- 8.4. Two members of the Chief Official Personnel Assessment Committee will constitute a quorum

#### **Substitution**

- 8.5. Substitutes are permitted

#### **Delegated functions**

- 8.6. Power is delegated to the Chief Official Personnel Assessment Committee:

- 8.6.1. To decide whether a formal investigation is required into allegations against the Chief Executive and other chief officials, and if so request that the Monitoring Officer or the Head of Human Resources appoint an appropriate Investigating Officer;
- 8.6.2. To decide whether to suspend the Chief Executive and other chief officials on full pay, following a decision to formally investigate allegations and following advice from the Head of Human Resources;
- 8.6.3. To decide, following a report by the Investigating Officer, whether the Chief Official Personnel Hearing Committee should meet to consider the disciplinary hearing; and
- 8.6.4. To advise the Chief Official Personnel Hearing Committee whether they consider the allegation(s) if substantiated to constitute misconduct or gross misconduct.

## **9. Chief Official Personnel Hearing Committee**

- 9.1. **Constitution:** 5 members of the Council as follows:

- 9.1.1. 1 SNP
- 9.1.2. 1 Conservative
- 9.1.3. 1 Labour
- 9.1.4. 1 Green
- 9.1.5. 1 SLD

- 9.2. A member of this Committee can not be a member of the Chief Official Personnel Assessment Committee or the Personnel Appeals Committee. Councillors must have undertaken and completed appropriate training specified by the Head of Human Resources.

### **Convener**

- 9.3. The Convener will be a member of the City of Edinburgh Council.

### **Quorum**

- 9.4. Two members of the Chief Official Personnel Hearing Committee will constitute a quorum

### **Substitution**

- 9.5. Substitutes are permitted.

### **Delegated functions**

- 9.6. Power is delegated to the Chief Official Personnel Hearing Committee:
  - 9.6.1. To decide following a fair hearing whether allegations against the Chief Executive and other chief officials have been substantiated; and



- 9.6.2. To dismiss or take any other form of disciplinary action in line with the disciplinary policy for chief officials;

## **10. Committee on Discretionary Rating Relief Appeals**

- 10.1. **Constitution:** 5 members of the Council as follows:

- 10.1.1. 1 SNP
- 10.1.2. 1 Conservative
- 10.1.3. 1 Labour
- 10.1.4. 1 Green
- 10.1.5. 1 SLD

### **Convener**

- 10.2. The Convener will be a member of the City of Edinburgh Council.

### **Quorum**

- 10.3. Two members of the Committee on Discretionary Rating Relief Appeals will constitute a quorum

### **Substitution**

- 10.4. Substitutes are permitted.

### **Delegated functions**

- 10.5. Power is delegated to the Committee on Discretionary Rating Relief Appeals:

- 10.5.1. To review decisions taken by the Executive Director of Resources to refuse discretionary rating relief;
- 10.5.2. To consider representations from organisations or individuals, justifying the granting of discretionary rating relief to them;
- 10.5.3. To decide whether or not to grant discretionary rating relief as a result of considering the organisation's or individual's representations; and
- 10.5.4. To decide what, if any, conditions should be fulfilled prior to discretionary rating relief being granted.

## **11. Leadership Advisory Panel**

- 11.1. **Constitution:** 5 members of the Council as follows:

- 11.1.1. Leader of the Council
- 11.1.2. Deputy Leader of the Council
- 11.1.3. Conservative Group Leader
- 11.1.4. Green Group Leader
- 11.1.5. Scottish Liberal Democrat Group Leader
- 11.1.6. three statutory representatives, appointed by the Education, Children and Families Committee when considering education business

### **Convener**

- 11.2. The Convener of the Committee will be the Leader of the Council.

### **Quorum**

- 11.3. Two members of the Leadership Advisory Panel will constitute a quorum except on education business when the quorum will be three members.

### **Substitution**

- 11.4. Substitutes are permitted for members of the Council only

### **Delegated functions**

- 11.5. Power is delegated to the Leadership Advisory Panel:

- 11.5.1. To decide any matter of urgency arising during any recess period, subject to the provision of any relevant enactment, to exercise all functions of the Council or Committee, which would otherwise have dealt with the matter that:

- (a) cannot await the resumption of the normal meetings timetable; and
- (b) cannot appropriately be decided by the Chief Executive or Executive Director in accordance with urgency provisions within these Committee Terms of Reference.

## **12. Planning Committee**

- 12.1. **Constitution:** 11 members of the Council as follows:

- 12.1.1. 3 SNP
- 12.1.2. 3 Conservative
- 12.1.3. 2 Labour
- 12.1.4. 2 Green
- 12.1.5. 1 SLD

### **Convener**

- 12.2. The Convener and Vice-Convener will be members of the City of Edinburgh Council.

### **Quorum**

- 12.3. Four members of the Planning Committee will constitute a quorum.

### **Substitution**

- 12.4. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Chief Planning Officer.

## **Delegated functions**

### **12.5. Power is delegated to the Planning Committee:**

- 12.5.1. To exercise the functions of the Council as planning, building standards and statutory addressing authority and to determine planning policies including:
  - (a). Development frameworks including public realm for place making;
  - (b). Strategic Infrastructure;
  - (c). Non-statutory planning guidance;
  - (d). designate and review conservation areas;
  - (e). management plans for world heritage sites.
- 12.5.2. To express and interpret these policies as specific tasks and projects and set service standards;
- 12.5.3. To review performance in the delivery of services, the achievement of service standards and the impact of the Committee's activities on the City;
- 12.5.4. To conduct relations with external bodies relevant to the Committee's service responsibilities, including approval of a response to proposals by other authorities or bodies on which the Council is being consulted;
- 12.5.5. To appoint representatives on outside bodies relevant to the committee's service responsibilities;
- 12.5.6. To consider the development and use of land in the city and wider city region and approve relevant stages of the local development plan and to refer it to Council for adoption;
- 12.5.7. To take decisions in pursuit of the committee's policies, subject to compliance with corporate personnel and financial policies and regulations;
- 12.5.8. To determine any charges for services provided by the committee; and
- 12.5.9. To provide financial assistance, in pursuit of the committee's policies.

## **13. Pensions Committee**

### **13.1. Constitution:** 7 members including 5 members of the Council as follows:

- 13.1.1. 1 SNP
- 13.1.2. 1 Conservative

13.1.3. 1 Labour

13.1.4. 1 Green

13.1.5. 1 SLD

13.1.6. 2 external members representing the employers and members in the pension funds.

- 13.2. The Pensions Committee will also be attended and overseen by the Pension Board, a body constituted under the Public Services Pensions Act 2013 and the Local Government Pension Scheme (Governance) (Scotland) Regulations 2014 and with powers regulated by the United Kingdom Pensions Regulator. The constitution and operations of the Pension Board will be determined in accordance with regulation and, where appropriate, considered and approved by the Pension Board and/or the Pensions Committee.

### **Convener**

- 13.3. The Convener will be a member of the City of Edinburgh Council.

### **Quorum**

- 13.4. Three members of the Pensions Committee will constitute a quorum.

### **Substitution**

- 13.5. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Executive Director of Resources.

### **Delegated functions**

- 13.6. Power is delegated to the Pensions Committee:

- 13.6.1. exercise all functions of the pension funds and associated legal and corporate structures, within the terms of the legislation;
- 13.6.2. determine the overall policy objectives of the pension funds in accordance with the best interests of fund members and employers and within all applicable legislation;
- 13.6.3. determine the strategy for the investment of pension funds monies including the variety and suitability of investments and to review and monitor investment arrangements;
- 13.6.4. ensure appropriate investment management arrangements are in place for pension funds monies and to review investment manager performance;
- 13.6.5. establish and maintain arrangements for the effective management and administration of the pension funds including staffing and budgetary arrangements.
- 13.6.6. approve the allocation of resources to the Lothian Pension Fund group for the operation and administration of the pension funds from the assets of the pension funds in accordance with the applicable

- pension regulations, including the approval of segregated financial arrangements and accounts for the pension funds and the agreement of contracts;
- 13.6.7. to appoint members to the Pension Board and approve bespoke terms of reference and standing orders where allowable under the Council framework for the Pensions Committee and the Pension Board as required to accommodate the applicable pensions and financial services regulation;
  - 13.6.8. approve responses to consultation papers issued by government and other authorities; and
- 13.7. monitor overall performance of the pension funds in the delivery of services and financial performance, consider all matters in respect of the pension funds including:
- 13.7.1. determining policies for the management and regulation of the Lothian Pension Fund group and within the strategic policy and planning framework approved by the Council;
  - 13.7.2. approving strategies, programmes and projects and work with officers and partners to implement them;
  - 13.7.3. setting standards for service delivery;
  - 13.7.4. securing best value in the provision of services and reviewing the control and assurance environment (including internal audit processes) for the Lothian Pension Fund group;
  - 13.7.5. taking all executive decisions in respect of the pension funds which are not reserved to the Council or delegated to another committee of the Council;
  - 13.7.6. ensuring systematic appraisal of the control environment and framework of internal controls in respect of the Lothian Pension Fund to provide reasonable assurance of effective and efficient operations and compliance with laws and regulations;
  - 13.7.7. promoting the development of an appropriate risk management strategy and risk management procedures;
  - 13.7.8. ensuring highest standards of probity and public accountability;
  - 13.7.9. ensuring sound financial procedures are in place for authorising and monitoring expenditure;
  - 13.7.10. agreeing internal audit plans and to ensure internal audit work is properly planned with due regard to risk, materiality and coverage;
  - 13.7.11. overseeing and review action taken on internal audit recommendations;

- 13.7.12. reviewing all matters relating to external audit, including audit plan, action points and reports, and to monitor implementation of external audit recommendations; and
- 13.7.13. promoting, monitoring and developing continuous improvement.

#### **14. Personnel Appeals Committee**

- 14.1. **Constitution:** 9 members of the Council as follows:

- 14.1.1. 3 SNP
- 14.1.2. 2 Conservatives
- 14.1.3. 2 Labour
- 14.1.4. 1 Green
- 14.1.5. 1 Scottish Liberal Democrat

##### **Convener**

- 14.2. The Convener will be a member of the City of Edinburgh Council.

##### **Quorum**

- 14.3. Three members of the Personnel Appeals Committee will constitute a quorum.

##### **Substitution**

- 14.4. Substitutes are permitted.

##### **Delegated functions**

- 14.5. Power is delegated to the Personnel Appeals Committee to:

- 14.5.1. hear and decide appeals on a decision taken, or a failure to take a decision, by an Executive Director, or his/her nominee, under the Procedures for Hearing Employee Grievances.
- 14.5.2. hear and decide appeals to a decision to:
  - (a). dismiss or take other forms of punitive disciplinary action; and
  - (b). issue a warning, oral or written under the Procedure for Consideration of Appeals by Executive Directors against Disciplinary Action and the Procedure for Consideration of Appeals against Disciplinary Action.
- 14.5.3. hear and decide disputes under the Avoidance of Industrial Disputes Procedure.
- 14.5.4. decide appeals from teaching staff in regard to the application and interpretation of the terms of the Scheme of Salaries and Conditions of Service for Teaching Staff in School Education.

- 14.5.5. hear and decide appeals to decisions by the Chief Official Personnel Hearing Committee.

## **15. Placing in Schools Appeals Committee**

- 15.1. **Constitution:** One person from each of the following panels:

- 15.2. Panel 1 All members of Council and religious representatives on the Education, Children and Families Committee.

Panel 2 Parents of children of school age.

Panel 3 Persons with experience in education and acquainted with educational conditions in the Council's area, nominated by the Executive Director for Communities and Families.

### **Chair**

- 15.3. Each meeting appoints a Chair.

### **Quorum**

- 15.4. Three members of the Placing in Schools Appeals Committee will constitute a quorum.

### **Substitution**

- 15.5. Substitutes are only permitted from the same Panel.

### **Delegated functions:**

- 15.6. Power is delegated to the Placing in Schools Appeals Committee:

15.6.1. To hear and decide appeals against decisions of the Council to refuse placing requests and exclude pupils all in terms of Section 28 C, D, E, G and H of the Education (Scotland) Act 1980 as amended; and

15.6.2. To consider appeals against decisions by the Executive Director of Communities and Families to refuse early admission to school.

## **16. Committee on Pupil Student Support**

- 16.1. **Constitution:** 5 members of the Council as follows:

16.1.1. 1 SNP

16.1.2. 1 Conservative

16.1.3. 1 Labour

16.1.4. 1 Green

16.1.5. 1 SLD

16.1.6. 1 religious representative from the Education, Children and Families Committee

### **Convener**

- 16.2. The Convener will be a member of the City of Edinburgh Council.

### **Quorum**

- 16.3. Two members of the Committee on Pupil and Student Support will constitute a quorum.

### **Substitution**

- 16.4. Substitutes are permitted.

### **Delegated functions:**

- 14.5. To consider school placing requests for the P1 and S1 intakes for August in each year where parents/guardians/carers have set out exceptional reasons in their applications for places in oversubscribed schools.
- 14.6. To decide if there are exceptional circumstances which apply to each individual child or young person and to determine the priority order on waiting lists for that specific child or young person.

Note: The Committee cannot grant individual placing requests even if it has decided that exceptional circumstances exist; places can only be awarded in these circumstances by the Placing in Schools Appeal Committee.

## **17. Recruitment Committee**

- 17.1. **Constitution:** 7 members of the Council as follows:

- 17.1.1. Leader of Council
- 17.1.2. Deputy Leader of the Council
- 17.1.3. Convener of the Finance and Resources Committee
- 17.1.4. Appropriate Convener or Vice-Convener for the role
- 17.1.5. A representative from each of the opposition groups

### **Convener**

- 17.2. The Convener of the committee will be the Leader of the Council.

### **Quorum**

- 17.3. Three members of the Recruitment Committee will constitute a quorum.

### **Substitution**

- 17.4. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Chief Executive and in line with the relevant Council policy.

### **Delegated functions**



- 17.5. Power is delegated to the Recruitment Committee to short list and interview candidates and recommend an appointment to the Council for posts at Chief Executive, Executive Director and Heads of Service Division level (Chief Officials).

## **18. Regulatory Committee**

- 18.1. **Constitution:** 9 members of the Council as follows:

- 18.1.1. 3 SNP
- 18.1.2. 2 Conservative
- 18.1.3. 2 Labour
- 18.1.4. 1 Green
- 18.1.5. 1 Scottish Liberal Democrat

### **Convener**

- 18.2. The Convener and Vice-Convener will be members of the City of Edinburgh Council.

### **Quorum**

- 18.3. Four members will constitute a quorum.

### **Substitution**

- 18.4. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Chief Executive.

### **Delegated functions**

- 18.5. Power is delegated to the Regulatory Committee to:

- 18.5.1. exercise the functions of the Council as Licensing authority under the Civic Government (Scotland) Act 1982 and other statutory provisions which are not within the remit of any other Committee.
- 18.5.2. exercise the functions of the Council on all licensing functions which are not reserved to the Council, its officers or delegated to another Committee.
- 18.5.3. determine individual applications for registration and licences under the Civic Government (Scotland) Act and other statutory provisions which are not delegated to officers, in accordance with approved policies.
- 18.5.4. express and interpret licensing policies as specific projects, to set service standards and monitor performance in the delivery of services including financial performance relating to Regulatory Committee matters.
- 18.5.5. liaise with external bodies relevant to the Committee's service area, considering and approving responses to consultation proposals.
- 18.5.6. appoint representatives to outside bodies within the Committee's remit.

- 18.5.7. approve charges as required by statute and determine licence fees.
- 18.5.8. determine applications for road construction consent which are not delegated to the Executive Director of Place.
- 18.5.9. determine applications for permission to place tables and chairs on footways which are recommended for refusal by the Executive Director of Place.
- 18.5.10. exercise the Council's responsibilities in respect of safety at sports grounds.
- 18.5.11. exercise the Council's functions regarding notification of parades and processions so far as not delegated to officers.

## **19. The City of Edinburgh Planning Local Review Body**

- 19.1. **Constitution:** 5 members of the Council as follows:

- 19.1.1. Any five members who are also members of the Planning Committee but not the Convener of the Planning Committee.

### **Convener**

- 19.2. Each meeting appoints a Convener.

### **Quorum**

- 19.3. Three members of the City of Edinburgh Planning Review Body will constitute a quorum.

### **Substitution**

- 19.4. Substitutes are only permitted from the pool of trained members of the Planning Committee.

### **Delegated functions:**

- 19.5. Power is delegated to the City of Edinburgh Planning Local Review Body to fulfil the obligations of the Council, as planning authority, under section 43A of the Town and County Planning (Scotland) Act 1997 for the conduct of reviews.

## **20. Committee on the Jean F Watson Bequest**

- 20.1. **Constitution:** 8 members of the council as follows:

- 20.1.1. 2 SNP
- 20.1.2. 2 Conservative
- 20.1.3. 2 Labour
- 20.1.4. 1 Green
- 20.1.5. 1 Scottish Liberal Democrat

- 20.1.6. one nominee of Friends of City Art Centre
- 20.1.7. two external members appointed by the Executive Director of Resources, in consultation with the Convener.

#### **Convener**

- 20.2. The Convener of the Committee will be a member of the City of Edinburgh Council.

#### **Quorum**

- 20.3. Four members of the Committee on the Jean F Watson Bequest will constitute a quorum.

#### **Substitution**

- 20.4. Substitutes are permitted.

#### **Delegated functions:**

- 20.5. Power is delegated to the Committee on the Jean F Watson Bequest to:
  - 20.5.1. Use monies from the Jean F Watson Bequest to purchase and commission for the City's collection works of artists and craftspeople born, practising in, or otherwise associated with Scotland, and in particular Edinburgh; all decisions to be guided by the Collection and Disposal Policy for the City Museums and Galleries.
  - 20.5.2. Use monies from the Catherine E Cowper Trust to purchase and commission items for the Museum of Childhood; all decisions to be guided by the Collection and Disposal Policy for the City Museums and Galleries.

### **21. Community Council Independent Complaints Panel**

- 21.1. **Constitution:** All members of the Council with each panel consisting of three elected members.
- 21.2. Councillors whose ward is where the Community Council subject to the complaint is a member will not be eligible for that Panel meeting.

#### **Convener**

- 21.3. The Convener of the Committee will be a member of the City of Edinburgh Council.

#### **Quorum**

- 21.4. Three members of the Community Council Independent Complaints Panel will constitute a quorum.

#### **Delegated functions:**

21.5. Power is delegated to the Community Council Independent Complaints Panel to:

21.5.1. Make a final determination of the complaint against a community councillor.

21.5.2. Apply the following sanctions:

(a). Censure of behaviour and a written undertaking to behave in accordance with the Scheme's Code of Conduct.

(b). Suspension from community council meetings and activities for a period of time to be agreed by a majority of the Panel.

(c). Request by a majority of the panel members for the named community councillor to step down.

(d). In serious cases, an expulsion from the community council, approved by a unanimous vote of the Panel.

21.5.3. Make recommendations to the relevant community council; and

21.5.4. Make recommendations to the City of Edinburgh Council.

## Sub-Committees

### **22. Development Management Sub-Committee (Parent: Planning Committee)**

22.1. **Constitution:** All 11 members of the Planning Committee, as follows: -

- 22.1.1. 3 SNP
- 22.1.2. 3 Conservative
- 22.1.3. 2 Labour
- 22.1.4. 2 Green
- 22.1.5. 1 Scottish Liberal Democrat

#### **Convener**

22.2. The Convener will be a member of the City of Edinburgh Council.

#### **Quorum**

22.3. Four members of the Development Management Sub-Committee will constitute a quorum.

#### **Substitution**

22.4. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Chief Planning Officer.

#### **Delegated Functions**

22.5. To discharge all functions of Management of Development Control required under the Planning Acts including the determination of planning applications (except for applications under the Council's Scheme of Delegation for Local Developments).

22.6. To determine applications for High Hedge Notices and withdraw or vary such notices as prescribed under the High Hedges (Scotland) Act 2013.

22.7. To determine cases for street naming and the numbering of properties.

### **23. Licensing Sub-Committee (Parent: Regulatory Committee)**

23.1. **Constitution:** 9 members of the Council as follows:

- 23.1.1. 3 SNP
- 23.1.2. 2 Conservative
- 23.1.3. 2 Labour
- 23.1.4. 1 Green
- 23.1.5. 1 Scottish Liberal Democrat

#### **Convener**

23.2. The Convener of the Licensing Sub-Committee is the Convener of the Regulatory Committee.

### **Quorum**

- 23.3. Three members constitute a quorum.

### **Substitution**

- 23.4. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Chief Executive.

### **Delegated functions:**

- 23.5. Power is delegated to the Licensing Sub-Committee to:
- 23.5.1. exercise the functions of the Council as Licensing authority under the Civic Government (Scotland) Act 1982 and other statutory provisions which are not within the remit of any other Committee;
  - 23.5.2. exercise the functions of the Council on all licensing functions which are not reserved to the Council, its officers or delegated to another Committee;
  - 23.5.3. determine individual applications for registration and licences under the Civic Government (Scotland) Act and other statutory provisions which are not delegated to officers, in accordance with approved policies;
  - 23.5.4. determine applications for road construction consent not delegated to the Executive Director of Place;
  - 23.5.5. determine applications for permission to place tables and chairs on footways recommended for refusal by the Executive Director of Place;
  - 23.5.6. exercise the Council's responsibilities in respect of safety at sports grounds; and
  - 23.5.7. exercise the Council's functions regarding notification of parades and processions so far as not delegated to officers.

## **24. Pensions Audit Sub-Committee (Parent: Pensions Committee)**

### **Constitution**

- 24.1. Three members from the Pensions Committee of which a minimum are two City of Edinburgh elected members.
- 24.2. Two non-voting members of the Pension Board will also be able to attend the Pensions Audit Sub-Committee to oversee its activities.

### **Quorum**

- 24.3. Two members of the Pensions Audit Sub Committee will constitute a quorum.

### **Convener**

- 24.4. The Convener of the Pensions Audit Sub-Committee will be appointed from the membership of the Pensions Committee, excluding the Convener of that committee.

#### **Substitution**

- 24.5. Substitutes are permitted from members of the Council who have undertaken and completed appropriate training specified by the Executive Director of Resources.

#### **Delegated functions**

- 24.6. Power is delegated to the Pensions Audit Sub-Committee to consider and make appropriate recommendation(s) to the Pensions Committee:

- 24.6.1. To ensure systematic appraisal of the control and assurance environment and framework of internal control (including internal audit processes) of pension funds to provide reasonable assurance of the effective and efficient operations and compliance with laws and regulations;
- 24.6.2. To promote the development of an appropriate risk management strategy and risk management procedures;
- 24.6.3. To ensure the highest standards of probity and public accountability;
- 24.6.4. To ensure sound financial procedures are in place for authorising and monitoring expenditure and the allocation of pension fund resources;
- 24.6.5. To consider and scrutinise an annual report on any companies owned by the Council that are connected to the activities of the pension funds and the Lothian Pension Fund group;
- 24.6.6. To review the consolidated annual financial statements of the pension funds/Lothian Pension Fund group and the International Standard on Auditing 260 (ISA 260) communication of audit matters;
- 24.6.7. To agree internal audit plans and to ensure that internal audit work is planned with due regard to risk, materiality and coverage;
- 24.6.8. To oversee in light of the audit plan the performance of the audit service;
- 24.6.9. To oversee and review action taken on internal audit recommendations; and
- 24.6.10. To review all matters relating to external audit, including audit planning, action points and reports, and to monitor the implementation of external audit recommendations.

### **25. Property Sub-Committee (Parent: Finance and Resources Committee)**

- 25.1. **Constitution:** 10 members of the Council as follows:

- 25.1.1. 3 SNP
- 25.1.2. 3 Conservative
- 25.1.3. 2 Labour
- 25.1.4. 1 Green
- 25.1.5. 1 SLD

#### **Convener**

- 25.2. The Convener will be a member of the City of Edinburgh Council.

#### **Quorum**

- 25.3. Four members of the Property Sub-Committee will constitute a quorum.

#### **Substitution**

- 25.4. Substitutes are permitted.

#### **Delegated functions:**

- 25.5. Power is delegated to the Property Sub-Committee to:
- 25.5.1. oversee the work of the Edinburgh Shared Repairs Service;
  - 25.5.2. to take decisions in relation to the Council's Shared Repair Service that fall within the remit of the Finance and Resources Committee in relation to financial and legal risks; and
  - 25.5.3. consider any outstanding issues that require detailed scrutiny in relation to the closure of the Property Conservation Programme Momentum project.

### **26. Special Sub-Committee on Adult Social Care (Parent: Culture and Communities Committee)**

- 26.1. **Constitution:** 5 members of the Council as follows:

- 26.1.1. 1 Labour
- 26.1.2. 1 SNP
- 26.1.3. 1 Conservative
- 26.1.4. 1 Green
- 26.1.5. 1 SLD

#### **Convener**

- 26.2. The parent committee appoints the Convener.

#### **Quorum**

- 26.3. Two members of the Special Sub-Committee on Adult Social Care will constitute a quorum.



### **Substitution**

- 26.4. Substitutes are permitted.

### **Delegated functions**

- 26.5. Power is delegated to the Special Sub-Committee on Adult Social Care to:
- 26.5.1. maintain an overview of the quality of social work experience for Edinburgh's citizens by considering reports of HMI, SWIA, and Care Commission inspections and internal reviews of health and social care establishments and services, and action taken;
  - 26.5.2. monitor the implementation of new initiatives relating to quality;
  - 26.5.3. maintain an overview of the implementation of national and local policies.
  - 26.5.4. address issues relating to the work of services which arise during the course of the business of the sub-committee and make recommendations to the Culture and Communities Committee;
  - 26.5.5. celebrate the success of services, including identification of examples of good practice; and
  - 26.5.6. provide a high quality experience for officers and sub-committee members by adopting an agreed set of protocols for the conduct of Special Sub-Committees.

## **27. Sub-Committee on Standards for Children and Families (Parent: Education, Children and Families Committee)**

- 27.1. **Constitution:** 9 Members of the Council as follows:

27.1.1. 3 SNP

27.1.2. 2 Conservative

27.1.3. 2 Labour

27.1.4. 1 Green

27.1.5. 1 Scottish Liberal Democrat

### **Convener**

- 27.2. The parent committee will appoint the convener.

### **Quorum**

- 27.3. Three members will constitute a quorum.

### **Substitution**

- 27.4. Substitutes are permitted.

### **Delegated functions**

- 27.5. Power is delegated to the Sub-Committee on Standards for Children and Families to:
- 27.5.1. Provide oversight of the quality of education and care experiences for young people in the City of Edinburgh by scrutinising the reports and follow up actions of Education Scotland inspections in schools;
  - 27.5.2. Consider an annual report on Care Inspectorate inspections in early years provision;
  - 27.5.3. Consider individual reports on Care Inspectorate inspections in residential schools, care services for children and local authority reviews of service areas, establishments and units;
  - 27.5.4. Monitor the implementation of initiatives relating to quality improvement and assurance, and attainment and achievement;
  - 27.5.5. Maintain an overview of the implementation of national and local policies specifically related to quality standards by officers, establishments and services;
  - 27.5.6. Contribute to the support and challenge agenda within the context of establishment plans; and
  - 27.5.7. Celebrate the success of establishments, units, teams and the service including recognising items of good practice.

# **CITY OF EDINBURGH COUNCIL**

## **SCHEME OF DELEGATION TO OFFICERS**

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## **CITY OF EDINBURGH COUNCIL**

### **SCHEME OF DELEGATION TO OFFICERS**

#### **1. GENERAL**

1.1 This Scheme of Delegation to Officers ("**Scheme**") applies from 18 March 2021 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 "**Executive Director**" means any of the Executive Directors of the Council or the Chief Officer - Edinburgh Health and Social Care Partnership (and "**Executive Directors**" shall be interpreted accordingly);

(b) 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;

(c) any reference to this Scheme shall include the appendices to the Scheme ("**Appendices**" and each an "**Appendix**");

(d) a reference to "**Council Policies**" shall include all and any policies approved

- (e) references to paragraphs are to paragraphs of this Scheme; and
- (f) headings are for convenience, do not form part of this Scheme and shall not be used in its interpretation.

### **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 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 Executive 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.

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

## 3. DELEGATION

### Delegated authority

- 3.1 The Council delegates authority for certain powers or functions to the Chief Executive, Executive Directors and service directors as detailed in this Scheme.
- 3.2 In the event that the Chief Executive, Executive Director is unavailable, his/her deputy or the relevant service director will have delegated authority to take urgent decisions in the absence of the Chief Executive or Executive Director.
- 3.3 The Chief Executive or Executive Directors may sub-delegate their delegated powers to their deputy or service director 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. The Chief Executive and Executive Directors will remain accountable for decisions taken by their sub-delegates.
- 3.4 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.
- 3.5 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.
- 3.6 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.

- 3.7 The authority delegated to the Chief Executive and Executive Directors in terms of this Scheme shall not include any Statutory Function, which shall be exercised by the appropriate Statutory Officer.
- 3.8 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 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 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.
- 3.9 Appropriate records must be kept of any sub-delegations of powers made under the Scheme.

### **Material Decisions**

- 3.10 Notwithstanding the terms of any delegation of authority to Executive Directors or other officers in terms of this Scheme, all Material Decisions shall be taken in consultation with the Corporate Leadership Team ("**CLT**"). It is intended that this will engender greater transparency; foster a collegiate culture of collective decision-making among Executive Directors; and ensure proper corporate oversight, scrutiny and challenge of Material Decisions.
- 3.11 It is the responsibility of each Executive 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 an Executive Director, to bring it to the attention of the relevant Executive Director and/ or Statutory Officers. The relevant Executive Director/ or Statutory Officer will bring any Material Decision to the next available meeting of the CLT.
- 3.12 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.
- 3.13 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.

## Major Projects

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

- (a) any project which has an estimated value of £5 million or more; or
- (b) any other corporate project the Executive Director of Corporate Services shall, in consultation with the CLT and the Convener or Vice-Convener of the Finance and Resources Committee, so designate.
- (c) Does not include projects involving the Lothian Pension Fund.

3.15 In order to ensure effective governance and delivery of Major Projects, the Executive Director of Corporate Services will make arrangements to:

- (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 CLT and the Governance, Risk and Best Value Committee on the status and progress of Major Projects.

## Contracts Standing Orders

3.16 Any officer to whom relevant authority is delegated in terms of this Scheme must comply with the terms of the standing orders and have regard to the Council’s procurement handbook 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

- a. (“**Contract Standing Orders**”).

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

4.1 As the Council’s Statutory 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 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;
- (b) take any urgent action necessary in the event of a civil emergency, business continuity or resilience incident;
- (c) 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;
- (d) act as Counting Officer for referendums held in terms of the Political Parties, Elections and Referendums Act 2000;
- (e) 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;
  - (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;

**5. DELEGATION TO THE CHIEF EXECUTIVE AND ALL EXECUTIVE DIRECTORS**

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

**6. DELEGATION TO EXECUTIVE DIRECTOR OF EDUCATION AND CHILDREN'S SERVICES**

6.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Executive Director of Education and Children's Services, or the Chief Social Work Officer where relevant, shall have delegated authority to exercise the schools, early years, children's social work services, childcare, libraries, sports, and wellbeing services, community based services relating to youth work and community justice, including those set out in Appendix 2.

**7. DELEGATION TO EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

- (a) 7.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Executive Director of Corporate Services shall have delegated authority to carry out all financial, commercial and procurement, treasury management, investments, pensions, human resources, recruitment, payroll, learning and development, customer services, business support, banking and payments, policy and insight, communications, strategic change and delivery, democracy, governance and resilience, welfare reform and benefits administration, digital services (ICT), legal, risk management, health and safety and internal audit functions of the Council, including those set out in Appendix 3.

**8. DELEGATION TO CHIEF OFFICER - EDINBURGH HEALTH AND SOCIAL CARE PARTNERSHIP**

- 8.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Chief Officer - Edinburgh Health and Social Care Partnership, or the Chief Social Work Officer where relevant, shall have delegated authority to exercise the social work, social care and social welfare functions of the Council including those set out in Appendix 4, except to the extent that those functions are delegated by Council to the Integration Joint Board.

**9. DELEGATION TO EXECUTIVE DIRECTOR OF PLACE**

- 9.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Executive Director of Place shall have delegated authority to carry out all powers and responsibilities associated with the Council's housing and regeneration, housing support, community safety, environmental health, Coronavirus public health restrictions, scientific services, trading standards, licensing, registration, advice services, parks, waste management and disposal, street cleaning, grounds maintenance, operational estate and investment property, strategic asset management, catering, facilities management, cleaning, catering, security and the Edinburgh shared repairs, economic development, sustainability, public safety, culture, libraries, sport and wellbeing services, community empowerment, community centres, corporate fleet management and maintenance, community transport, building standards, transport planning, roads management and maintenance, flood prevention, reservoir and coastal functions including those set out in Appendix 5.

**10. DELEGATION TO CHIEF PLANNING OFFICER**

- 10.1 Subject to the provisions of paragraphs 1 to 3 of this Scheme, the Chief Planning Officer

shall have delegated authority to exercise the planning functions set out in Appendix 6.

## **11. DELEGATION TO HEAD OF HUMAN RESOURCES AND MONITORING OFFICER**

11.1 The Head of Human Resources and/or the Monitoring Officer, when directed by the Chief Official Personnel Assessment Committee, have delegated authority to appoint an investigating officer to conduct a formal investigation into allegations made against the Chief Executive or other chief officials in line with the Council disciplinary policy.

11.2 The Head of Human Resources and Monitoring Officer have delegated authority , in consultation with the Leader of the Council, to determine whether the Chief Executive is conflicted in any disciplinary process involving other officers which means the matter must be dealt with by elected members under the Council's disciplinary policies.



## **APPENDIX 1**

### **GENERAL DELEGATION TO CHIEF EXECUTIVE AND EXECUTIVE 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 Executive Director of Corporate Services:

(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 Executive Director of Corporate Services is informed 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 (including call-off contracts or direct awards under Framework Agreements established by the Council) subject to compliance with the Council's Contract Standing Orders or as otherwise authorised by the Council;
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 Service Director: Legal and Assurance ;
7. initiating, entering into, defending and withdrawing from legal proceedings in consultation with the Service Director: Legal and Assurance;

## **Staff**

8. appointing employees within agreed staffing levels up to but excluding Service Directors;
9. appointing an acting Service Director from the staff of the Council when a Service Director 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, in accordance with Council's approved policy and procedures;
12. changing staffing structures, numbers and gradings in accordance with approved job evaluation arrangements, with the exception of significant change requiring a formal organisational review, provided that such changes comply with guidelines issued by the Executive Director of Corporate Services;
13. remedying inconsistencies in pay or terms and conditions of service in conjunction with the Executive Director of Corporate Services;
14. deciding the following staffing matters in accordance with approved Council policy, procedures and/or guidance issued by the Executive Director of Corporate Services (or, in the case of teaching staff, by the Executive Director of Education and Children's Services):
  - (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 Service Director: Legal and Assurance, and subject also to consultation with the appropriate convener;
- (c) save in the case of an Executive Director, where the decision shall be reserved to the Finance and Resources Committee, making decisions in relation to the Local Government Pension Scheme membership (including, for example, early payment of pensions, late transfers, late applications to pay optional pensions contributions, augmented membership, additional pensions, and fraud/forfeiture cases);
- (d) extension of occupational sick pay allowance;
- (e) approval of payroll deductions and the recovery of overpayments;
- (f) closure of buildings in emergency or exceptional circumstances and early closure during the festive season;
- (g) approval of transfer of annual leave;
- (h) approval of overtime or additional hours of work;
- (i) approval of applications for secondary employment;
- (j) authorisation of payments for lectures, speeches etc. to external organisations;
- (k) determination of claims of up to £250 for damage to or loss of the personal property of employees in consultation with the Executive Director of Corporate Services;
- (l) payment of removal expenses and allowances;
- (m) payment of car users' allowances;
- (n) authorisation of telephone allowances;
- (o) placement of employees on appointment on a point within a grade or grades applicable to the posts;
- (p) establishment and filling of fixed term posts in accordance with the relevant Council

(q) appointment of apprentices on completion of indentures;

### **Health and Safety**

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

### **Staff Wellbeing**

16. implementing the Council's Wellbeing Strategy and Policy for staff and associated 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

Appendix 1 – General Delegation to Chief Executive and Executive Directors  
(Scotland) Act 2000 and the Regulation of Investigatory Powers Act 2000 in accordance with Council policy, with the exception in the case of the Executive Directors of the following functions which are reserved to the Chief Executive:

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

### **Grants**

21. The approval of grants should be undertaken in line with the rules and authority level set out in Grant Standing Orders (officer approval for grants under £25000).

### **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 or monetary asset not falling within the scope of the Corporate Debt policy in accordance with the Financial Regulations provided that:

- (a) the stores, plant, furniture, equipment or such asset has become unfit for use and unsaleable, or in the case of relevant monetary assets, all reasonable steps to achieve recovery have been exhausted; and
- (b) the decision is made in consultation with the Executive Director of Corporate Services;

### **Access to information**

25. responding to requests for information made to the Council under the Freedom of

## **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, including the attendance of a nominated Council observer at all company Board meetings and, where practicable, the relevant Audit Committee.

## **APPENDIX 2**

### **DELEGATION TO THE EXECUTIVE DIRECTOR OF EDUCATION AND CHILDREN'S SERVICES**

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

the Children's Reporter to the Scottish Ministers under the Children's Hearings (Scotland) Act 2011;

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

### **Social Work**

37. taking necessary steps to discharge the Council's duties under the Social Work (Scotland) Act 1968, the Children (Scotland) Act 1995, the Social Care (Self-directed Support) (Scotland) Act 2013 and the Children and Young People (Scotland) Act 2014;

38. arranging for the protection of property of people who have gone into hospital or care as in section 48 of National Assistance Act 1948;

39. maintaining a Complaints Procedure and service as in section 5B of the Social Work (Scotland) Act 1968;

40. 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;

41. 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 the Social Care (Self-directed Support) (Scotland) Act 2013;

42. 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 the Social Care (Self-directed Support) (Scotland) Act 2013;

43. 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;

44. 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;

45. providing and maintaining whatever residential and other establishments are needed for the Council's functions under Part II of the Children (Scotland) Act 1995;

46. 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;

47. authorising the following finance related issues in accordance with the Corporate Debt Policy and wider Council Policies:

(a) writing off debts on social grounds or in exceptional circumstances;

(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;

48. 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;

49. 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;

50. 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;

51. providing an adoption service in accordance with section 1 of the Adoption and Children (Scotland) Act 2007;

52. 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;

53. taking necessary or facilitative steps to implement arrangements for the adoption of children;

54. providing adoption support plans under section 45 of the Adoption and Children (Scotland) Act 2007;

55. approving and paying adoption allowances as in section 71 of the Adoption and Children (Scotland) Act 2007;

56. 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);

57. preparing and publishing a plan for services to children under 8 years of age as in section 19 of the Children Act 1989;

58. 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;

59. publishing information about services for children in need as in section 20 of the Children (Scotland) Act 1995;

60. 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;

61. 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;

62. minimising the effect of disability on children, assessing the needs of children with or affected by disability, assessing the ability of their carers 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;

63. 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;

64. 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;

65. providing accommodation and maintenance for children looked after by the Council as in section 26 of the Children (Scotland) Act 1995;

66. providing day care for pre-school and other children as in section 27 of the Children (Scotland) Act 1995;

67. 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;

68. 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;

69. reviewing cases of children looked after by the Council as in section 31 of the Children (Scotland) Act 1995;

70. removing children from residential establishments as in section 32 of the Children (Scotland) Act 1995;

71. 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;

72. providing short term refuges where a child may be at risk of harm as in section 38 of the Children (Scotland) Act 1995;

73. making enquiries and providing information to the Principal Reporter to the Children's Panel where children may need compulsory measures of care as in section 60 of the Children's Hearings (Scotland) Act 2011;

74. where a child may be at risk of significant harm, investigating the matter and if need be applying for the following orders:

(a) Child Assessment Order (under section 35 of Children's Hearings (Scotland) Act 2011);

(b) Child Protection Order (under sections 37 to 39 of Children's Hearings (Scotland) Act 2011);

(c) Emergency Child Protection Order (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);

75. providing reports on children and their social background for a Children's Hearing as in section 66 of the Children's Hearings (Scotland) Act 2011;

76. implementing supervision requirements made by a Children's Hearing under the Children's Hearings (Scotland) Act 2011;

77. in consultation with Chief Executive and with the Service Director: Legal and Assurance, receiving, responding to and representing the Council in respect of all referrals by the Children's Reporter to the Sheriff Principal under the Children's Hearings (Scotland) Act 2011;

78. arranging the emergency move of a child subject to a supervision requirement with condition of residence under the Children's Hearings (Scotland) Act 2011;

79. recommending that a supervision requirement is reviewed by a Children's Hearing under the Children's Hearings (Scotland) Act 2011;

80. 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;

81. 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;

82. 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;

83. 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;

84. discharging the Council's duties in relation to children and young people under the Secure Accommodation (Scotland) Regulations 2013;

85. 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.

93.

86. undertaking housing offender management (sex and serious violent offenders);

87. supervise and manage offenders subject to community orders or released from prison (or in similar circumstances) including:

- (i) reports for courts and hearings (excluding children);
- (ii) probation orders;
- (iii) community payback orders;
- (iv) community service;
- (v) supervised attendance orders;
- (vi) drug treatment and testing orders;
- (vii) orders under section 57 of the Criminal Procedure (Scotland) Act;
- (viii) diversion from prosecutions;
- (ix) parole, or other supervised conditional release from prison;

- (x) provision of advice, guidance and assistance if requested by a person released from prison or detention within the previous 12 months; and
- (xi) throughcare services for serving and released prisoners;

88. supervise and manage offenders subject to community orders or released from prison (or in similar circumstances) including:

89. take steps to ensure the Council complies with its duties to co-operate with the Scottish Minister when carrying out its functions in accordance with sections 1 and 10 to 12 of the Management of Offenders etc. (Scotland) Act 2005.

## **Sport**

90. devising and implementing events and sports programmes;

91. allocating space within sports facilities 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;

92. monitoring arms' length organisations which operate Sport facilities or services, or both, on the Council's behalf, including Edinburgh Leisure;

## **Libraries**

93. providing and managing the Council's library services;

94. 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);

95. 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);

96. 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); and



97. 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).

### **APPENDIX 3**

#### **DELEGATION TO THE EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

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

##### **Legal and Assurance**

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. monitor 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 General Data Protection Regulation 2016/679;
5. monitor the management of Council records in line with the provisions of the Public Records (Scotland) Act 2011;
6. approve expenditure on civic hospitality in accordance with Council Policy;

##### **Human Resources**

7. approving applications for early retiral/voluntary severance payments (including teaching staff)(excluding Executive Directors) subject to an annual report being submitted to the Finance and Resources Committee;
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

10. implementing nationally agreed pay awards;

11. approving and making payment of:

(a) all elements of pay, remuneration and expenses to all employees;

(b) pension entitlements to existing and former employees; and

(c) tax, national insurance and apprenticeship levy contributions to Her Majesty's Revenue and Customs;

## **Finance**

12. determining all accounting and financial records and procedures of the Council. Where such procedures and records are maintained in a directorate/division other than that of the Executive Director of Corporate Services, the Executive Director shall, before making any determination, consult with the Executive Director of the service area concerned;

13. 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 Executive Director takes the appropriate advice where necessary and reports any actions to Committee;

14. opening, closing and operating bank accounts on behalf of the Council;

15. approving and making payments due to Her Majesty's Revenue and Customs, and Revenue Scotland;

16. reviewing and amending as appropriate the financial limits given in the Financial Regulations, Finance Rules and supporting policies every year, in line with the relevant inflation indexes;

17. 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;

18. all borrowing and lending in accordance with the Treasury Management Policy Statement;

19. 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;

20. assessing business cases for the taking out of new leases to ensure they are consistent with the securing of best value;

21. effecting insurance cover and negotiating with the Council's insurers for all claims in consultation with other officers where necessary;

22. reviewing annually all insurances in consultation with the other chief officers as appropriate and reporting annually to the convener or vice- convener;

23. approving the rate of interest the Council is required to charge to borrowers with variable interest rate loans;

24. being responsible for all purchasing arrangements as detailed in the Contract Standing Orders;

25. collecting and where necessary recovering debt, and where appropriate authorising the write-off of debt, in accordance with Council Policies;

### **Customer and Digital Services**

26. 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;

27. issuing demand notices for the collection of rates payable to the Council under section 237 of the Local Government (Scotland) Act 1947;

28. recovering rates under section 247(5) of the Local Government (Scotland) Act 1947,

where necessary in consultation with the convener or vice-convener;

29. administering benefits in accordance with the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992;

30. administering council tax reduction scheme in accordance with the Council Tax Reduction (Scotland) Regulations 2012;

31. paying all sums to all creditors subject to the certification and authorisation of the appropriate chief officers;

32. 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;

33. deciding to call-up loans where borrowers have fallen into arrears with their house purchase loans;

34. 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;

#### **The Lothian Pension Fund Group**

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 Executive Director takes the appropriate advice;

37. implementing pension regulations including the application of discretions as required in accordance with policies approved by the Pensions 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;

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

## **APPENDIX 4**

### **DELEGATION TO THE CHIEF OFFICER - EDINBURGH HEALTH AND SOCIAL CARE PARTNERSHIP**

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

These are the powers referred to in paragraph 8 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, 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)

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

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 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;

(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:

(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. collaborating with individuals and carers to assess their needs and providing information in accordance with sections 12A, 12AA and 12AB of the Social Work (Scotland) Act 1968;

22. deciding 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;

25. assisting in persons in need disposal 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; and

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

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.

33. Awarding and refusing grants in line with the decision of the Edinburgh integration Joint Board.

## **APPENDIX 5**

### **DELEGATION TO THE EXECUTIVE DIRECTOR OF PLACE**

These are the functions referred to in paragraph 9 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);
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);

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);
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 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);

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;
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. acting 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);
- 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 more than 6 material objections received by the public. Where an order under the above-noted sections of the Road Traffic Regulation Act 1984 covers locations in different streets, or contains no other proposals located within 100 metres in the same street, the order can be made under delegated powers where there have been no more than six material objections per location.

- (a) If statutory objections are received then consideration of the Order should be by the relevant committee;

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;

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. deciding 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);
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;

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. deciding 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);
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;

### **Housing and Regeneration**

136. approving offers and authorising payments of grants to Registered Social Landlords;

137. 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;

137. operating the "Right to Repair" scheme for tenants of Council Homes;

139. consenting to repairs and improvements of Council Homes;

140. determining whether the costs of repair and improvements to Council Homes should be reimbursed and to what extent;

141. maintaining a common housing register and allocating Council Homes in accordance with the Council's lettings policy;

142. collecting rent, service charges and court costs where applicable from current and former tenants of Council Homes;

143. writing off the arrears balances of former tenants of Council Homes in accordance with Council Policies;

144. consulting with tenants of Council Homes on increases to rent and service charges;

145. carrying out regular maintenance of land held on the Housing Revenue Account;



146. instructing repairs to common areas in accordance with the Tenements (Scotland) Act 2004;
147. preparing and implementing a Tenant Participation Strategy, including keeping a register of tenant organisations in accordance with the Housing (Scotland) Act 2001;
149. 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;
150. preparing and maintaining a register of private landlords under the Antisocial Behaviour etc. (Scotland) Act 2004;
151. carrying out functions under Part 9 of the Antisocial Behaviour etc. (Scotland) Act 2004;
152. 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;
153. approving the entitlement to the relevant discounts of the fee to be entered on the register of private landlords;
154. carrying out the Council's duties as a landlord under section 30 of the Housing (Scotland) Act 1988;
155. issuing, serving, suspending and revoking work notices under sections 30, 31 and 32 of the Housing (Scotland) Act 2006;
156. 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;
157. carrying out work after notification by a private rented housing committee under section 36 of the Housing (Scotland) Act 2006;
158. carrying out the Council's functions in relation to maintenance under Part 1, Chapter 6 of the Housing (Scotland) Act 2006;
159. 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;

160. carrying out the Council's functions in relation to rights of entry under Part 9 of the Housing (Scotland) Act 2006;

161. exercising the Council's powers under Part 10 of the Housing (Scotland) Act 2006;

162. granting, varying, refusing, extending and revoking temporary exemption orders in terms of section 142 and 143 of the Housing (Scotland) Act 2006;

163. issuing rent penalty notices under the Antisocial Behaviour etc. (Scotland) Act 2004;

164. where appropriate, refunding fees that have been paid by applicants to be placed on the register of landlords;

165. processing applications for improvement grants and domestic sound- proofing grants including authority to make payments;

166. seeking the Scottish Minister's approval to raise the level of grant given grant to an owner-occupier for reasons of hardship;

167. Carrying out the Council's duties as a landlord under section 30 of the Housing (Scotland) Act 1988.

168. 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;

169. carrying out spot purchases of accommodation, including Bed and Breakfasts, for homeless, temporary or emergency accommodation;

170. entering into leasing agreements with Registered Social Landlords for homeless, temporary or emergency accommodation;

171. carrying out repairs to white goods and furnishings in homeless, temporary or emergency accommodation and core furnished tenancies;

172. kennelling pets for households staying in homeless, temporary or emergency accommodation;

173. determining who receives housing support in line with Council Policies;

174. Provide advice, guidance and assistance on debt, welfare rights and income maximisation.

175. implementing and enforcing the conditions of the Council's tenancy agreements for Council Homes including decisions to progress cases for repossession and eviction action;

176. determining eligibility of applicants and administering the sale of Council Homes under "Right to Buy" legislation;

177 purchasing and selling property on the Housing Revenue Account up to a value of £250,000, provided that such purchases are reported annually to the appropriate committee;

### **Property and Facilities Management**

178. 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;

(c) 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;

179. negotiating, processing and instructing the Service Director, Legal and Assurance to conclude all rent reviews;

180. 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;

181 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, except for:

- (a) wayleaves for gas mains of a diameter greater than 225 mm;
- (b) grids, oil or chemical pipelines;
- (c) overhead transmission lines with capacity greater than 33,000 volts which would only be granted with the Council's consent;

182. granting and obtaining a Minute of Waiver for no more than £50,000;

183. 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;

184. permitting a tenant to assign their lease/agreement subject to the Council being in no worse a financial position;

185. buying land or property if it has been specifically budgeted for;

186. 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 Resources Committee);

187. agreeing terms for the sale of small plots of land (including land held on the Housing Revenue Account) and instructing the Service Director, Legal and Assurance 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;

188. negotiating and instructing the Service Director, Legal and Assurance to conclude the sale of residential properties under “Right to Buy” legislation;

189. 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:
  - (i) the length of the lease is no more than five years and the exclusive rent is no more than £50,000 a year; or
  - (ii) 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 Service Director, Legal and Assurance to conclude these;

190. 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
- (c) negotiating to renew or extend leases where it is uneconomic or unsuitable to advertise these properties;

191. 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;

192. 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;

193. managing or instructing the lease of Council community centres, working with locally elected Management Committees;

### **Edinburgh Shared Repairs Service**

194. 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;

195. withdrawing, waiving and relaxing notices issued under Part 4 of the Building (Scotland) Act 2003;

196. recovering reasonable costs incurred in respect of surveys under- taken under section 22 of the Local Government in Scotland Act 2003

197. 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;

198. inspecting properties, serving (as proper officer) and enforcing notices and recovering costs under section 24 of the Edinburgh District Council Order Confirmation Act 1991; and

199. 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 in doing so, all in accordance with section 26 and 57 of the Edinburgh District Council Order Confirmation Act 1991.

200. cancelling and serving new notices under section 48 of the City of Edinburgh District Council Order Confirmation Act 1991;

201. make missing share payments into owners' maintenance accounts for sums between £500 and £20,000 under section 50 (3) of the Housing Act 2006.

202. recover missing share payments from the owner of the house concerned under section 59 of the Housing Scotland Act 2006 and in line with the Council's Corporate Debt Policy.

## **Licensing**

203. granting or refusing permits for public charitable collections in accordance with criteria approved by the Regulatory Committee;

204. granting, attaching conditions to, refusing and issuing applications for licences etc. under the Civic Government (Scotland) Act 1982 and the legislation listed in Part A of Appendix 10 (including taxi and private hire car licence applications where an adverse medical report has been received) subject to:

(l) there being no objection or unresolved representation from a member of the public or the Chief Constable to the application;

205. subject to consultation with the Convener or Vice-Convener of the Licensing Sub-Committee, granting, attaching conditions to, refusing and issuing 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;

206. granting, renewing, varying and issuing 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;

207. renewing and issuing 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;

208. keeping a public register of applications, permissions and licences;

209. granting and issuing late hours catering licence renewals with hours in excess of zoning policy, where those hours had been enjoyed in the preceding year without complaint;

210. determining an application for an exemption from the requirement to have a late hours catering licence in respect of any particular occasion or during a specified period not exceeding two months in any period of 12 months, and, where appropriate, to attach to such exemption any of the standing conditions applying to late hours catering licences;

211. refunding the appropriate application fee (or part of the fee) for applications which have been withdrawn or refused and licences which have been granted, in accordance with Council Policy;

212. advertising any proposed taxi stance appointment, variation or revocation and:

(a) determining the proposal where no public objections or representations are received; and

(b) determining the starting date of any change;

213. determining whether good cause has been shown to deem an application for renewal of a licence made up to 28 days after the expiry of the existing licence is to be treated as if the licence had been made prior to its expiry;

214. 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;

215. suspending taxi and private hire driver licences on a temporary basis on medical grounds during the currency of a licence where the licence holder agrees;

216. exempting new taxi driver licence applicants from elements of the compulsory training course if they have alternative equivalent qualifications;

217. accepting new 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;

218. 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;

219. approving the installation of WIFI, CCTV or another camera equipment in any relevant licensed vehicle;

220. 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);

221. 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);

222. issuing letters of confirmation in respect of notification of public processions received except for any notification attracting representations that cannot be resolved through negotiation;

223. determining requests for variation of fees for Houses in Multiple Occupation licences;

224. appointing members to vacancies arising in the membership of the Council's Licensing Forum;

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

226. determining and issuing wheelchair exemptions on a temporary basis in respect of the City of Edinburgh Council's Licensing Conditions for Taxis, Private Hire Cars, Taxi Drivers and Private Hire Car Drivers;

227. determining whether to hold a hearing to consider the suspension of a licence in terms of the Civic Government (Scotland) Act 1982;

228. approve in terms of standard licence condition 26 for individual applications to install Admits and to vary the standard conditions of licence to disapply condition 299 insofar as it applies to Admits.

226 approve exemptions to the age and emissions policy in respect of vehicle owners who are retiring, subject to meeting the criteria agreed by the Regulatory Committee

227 approve in terms of standard licence condition 26 for individual applications to install 'Brightmove taxi tops' and to vary the standard conditions of licence to disapply condition 299 insofar as it applies to 'Brightmove taxi tops'

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

229. exercising statutory duties, functions and enforcement under the legislation listed in Part B of Appendix 10;

230. when appointed by the Scottish Ministers, acting on any Emergency Order made under Part I of the Food and Environment Protection Act 1985;

231. carrying out reviews of air quality in accordance with section 82 of the Environment Act 1995;

232. 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;

233. complying with any regulations made under section 87 of the Environment Act 1995;

234. enforcing pollution and nuisance control measures in accordance with sections 107, 108 and 109 of the Environment Act 1995;

235. issuing suspension notices under section 14 of the Consumer Protection Act 1987 for goods which are suspected to be unsafe;

236. granting licences under the Health and Safety at Work etc. Act 1974 and the Petroleum Acts 1928 and 1936;
237. making registrations under the Health and Safety and Work etc. Act 1974 and The Poisons Act 1972;
238. 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;
239. 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;
- 240 dealing with causes of imminent danger in accordance with section 25 of the Health and Safety at Work etc. Act 1974;
241. providing information upon request under section 27 of the Health and Safety at Work etc. Act 1974;
242. issuing credentials to enforcement staff so that they can deal with enforcing and licensing as provided by the relevant legislation and European directives;
243. 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;
244. 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's;
- 245 enforcing the removal or discontinuation of advertisements under section 186 of the Town and Country Planning (Scotland) Act 1997;
246. removing or obliterating placards or posters in accordance with section 187 of the Town and Country Planning (Scotland) Act 1997;
247. 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);

248. 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;

249. 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);

250. 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);

251. maintaining cemeteries in accordance with section 10 of the Edinburgh District Council Order Confirmation Act 1991;

252. awarding community grants from dedicated budgets;

253. 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);

254. 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);

255. 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);

256. 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);

257. 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;
258. 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;
259. 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;
- 260 carrying out periodical inspections and exercising the Council's inspections functions under sections 9A to 12 of the Zoo Licensing Act 1981;
261. considering and deciding for the welfare of animals following the closure of a zoo under sections 16E and 16G of the Zoo Licensing Act 1981;
262. controlling noise from construction sites by investigating, and serving and publishing notices in accordance with section 60 of the Control of Pollution Act 1974;
263. considering applications for consents for works in accordance with section 61 of the Control of Pollution Act 1974;
264. 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;
265. inspecting and investigating statutory nuisances in accordance with section 79 of the Environmental Protection Act 1990;
266. 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;
267. abating nuisances and recovering costs in relation to statutory nuisances in accordance with sections 81, 81A and 81B of the Environmental Protection Act 1990;
268. issuing fixed penalty notices for contravention of unauthorised or harmful depositing of waste in accordance with section 33A of the Environmental Protection Act 1990;

269. complying with the duty of care in relation to controlled waste in accordance with section 34 of the Environmental Protection Act 1990;

270. issuing notices and requiring the removal of waste unlawfully deposited in accordance with section 59 of the Environmental Protection Act 1990;

271. promoting the abatement of litter in accordance with section 87 of the Environmental Protection Act 1990;

272. issuing fixed penalty notices for leaving litter in accordance with section 88 of the Environmental Protection Act 1990;

273. designating litter control areas in accordance with section 90 of the Environmental Protection Act 1990;

274. serving litter abatement notices in accordance with section 92 of the Environmental Protection Act 1990;

275. issuing street litter control notices in accordance with section 93 of the Environmental Protection Act 1990;

276. 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;

277. removing abandoned vehicles in accordance with section 3 of the Refuse Disposal (Amenity) Act 1978;

278. disposing of removed vehicles in accordance with section 4 of the Refuse Disposal (Amenity) Act 1978;

279. recovering expenses in connection with removed vehicles in accordance with section 5 of the Refuse Disposal (Amenity) Act 1978;

280. dealing with graffiti in accordance with sections 58 to 65 of the Antisocial Behaviour (Scotland) Act 2004, including serving graffiti removal notices;

281. 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;

282. serving notices in relation to environmental matters in accordance with section 160 of the Environmental Protection Act 1990;

283. 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;

284. 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;

285. inspecting land in relation to contaminated land in accordance with section 78B of the Environmental Protection Act 1990;

286. serving notices to require the remediation of contaminated land in accordance with section 78E of the Environmental Protection Act 1990;

287. determining appropriate people to bear responsibility for remediation in accordance with section 78F of the Environmental Protection Act 1990;

288. consulting in relation to remediation notices in accordance with sections 78G and 78H of the Environmental Protection Act 1990;

289. serving remediation notices in relation to the pollution of controlled waters in accordance with section 78J of the Environmental Protection Act 1990;

290. serving remediation notices in relation to contaminating substances which escape to other land in accordance with section 78K of the Environmental Protection Act 1990;

291. carrying out remediation to the relevant land or water environment in accordance with section 78N of the Environmental Protection Act 1990;

292. recovering costs incurred in relation to remediation in accordance with section 78P of the Environmental Protection Act 1990;

293. 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;

294. maintaining a register in relation to contaminated land in accordance with sections 78R, 78S and 78T of the Environmental Protection Act 1990;

295. providing SEPA with information when requested in accordance with section 78U of the Environmental Protection Act 1990;

296. having regard to guidance issued by SEPA in accordance with section 78V of the Environmental Protection Act 1990;

297. exercising the Council's functions in relation to contaminated land in accordance with section 78X of the Environmental Protection Act 1990;

298. carrying out the Council's enforcement functions under sections 68, 71, 74 and 78 of the Antisocial Behaviour etc. (Scotland) Act 2004

299. carrying out the Council's enforcement functions in relation to fireworks in accordance with sections 2, 3 and 12 of the Fireworks Act 2003;

300. 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;

301. enforcing the safety provisions of the Motorcycle Noise Act 1987;

302. enforcing the provisions of the Tobacco Advertising and Promotion Act 2002 in accordance with sections 13 and 14 of that acts;

303. enforcing the duty to provide information on sale of houses, in accordance with sections 109 to 112 of the Housing (Scotland) Act 2006;

304. exercising the Council's enforcement functions in accordance with sections 25 and 26 of the Tobacco and Primary Medical Services (Scotland) Act 2010;

305. 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;



306. issuing fixed penalty notices in accordance with section 27 of the Tobacco and Primary Medical Services (Scotland) Act 2010;
307. exercising the Council's powers of entry in accordance with sections 28 to 31 of the Tobacco and Primary Medical Services (Scotland) Act 2010;
308. 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;
309. exercising the Council's enforcement functions and powers under the Enterprise Act 2002;
310. dealing with the clean-up of spills in accordance with the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998;
311. 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;
312. 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;
313. 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;
314. 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;
315. cancelling and serving new notices under section 48 of the City of Edinburgh District Council Order Confirmation Act 1991;
316. 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;
317. 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;

318. enforcing powers (and any amendments) given to the Council for Coronavirus public health restrictions.

### **Parks and Greenspace**

319. 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 Culture and Communities 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;

320. 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);

321. creating, maintaining, enhancing and removing physical and natural assets within the Council's parks and greenspaces;

322. creating, maintaining, enhancing and removing trees and other landscape features managed by the Council;

323. implementing the provisions of the Council's Park Management Rules;

324. implementing the provisions of the Allotments (Scotland) Acts and administering the

Council's allotment regulations;

325. 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;

326. drafting, managing and implementing Council approved policy and strategy that relates to parks and greenspace responsibilities;

327. managing the Council's Green Flag Award and other quality management programmes;

328. managing events and activities taking place within parks and greenspaces;

## **Waste Services**

329. 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;

330. 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;

331. specifying the level of services and other relevant details for providing waste management, street cleansing and refuse collection services;

332. 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;

- 333. setting the prices of trade waste services provided by the Council;
- 334. exercising statutory duties, functions and enforcement under the legislation listed in Part B of Appendix 10 that relate to waste management;
- 335. 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);
- 336. 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;
- 337. 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;
- 338. serving notice on occupiers regarding the placing of waste for collection in receptacles in accordance with section 46 of the Environmental Protection Act 1990;
- 339. 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;
- 340. 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;
- 341. 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;
- 342. enabling waste to be recycled, used for the purpose of producing heat or electricity, buying or acquiring waste to be recycled and using, selling or disposing of waste belonging to the authority in accordance with section 56 of the Environmental Protection Act 1990;

343. 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;

344. 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;

345. 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;

346. 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;

347. exercising the power to require any person to furnish information in accordance with section 71 of the Environmental Protection Act 1990;

348. participating in legal proceedings in accordance with section 73 of the Environmental Protection Act 1990;

349. 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;

350. 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;

351. 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;

### **Building Standards**

352. submitting comments on relaxation applications determined by the Scottish Ministers;

353. 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;

354. undertaking building standards assessments under section 6 of the Building (Scotland)

Act 2003;

355. deciding on completion certificate submissions under section 18 of the Building (Scotland) Act 2003;

356. 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;

357. deciding on the imposition of a continuing requirement in terms of section 22 of the Building (Scotland) Act 2003;

358. deciding on the discharge or variation of a continuing requirement in terms of section 23 of the Building (Scotland) Act 2003;

359. maintaining and administering a building standard register in terms of section 24 of the Building (Scotland) Act 2003;

360. 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;

361. 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;

362. processing section 50 certificates in relation to Building Standards in terms of the Licensing (Scotland) Act 2005;

363. granting or refusing applications for building warrants, amendments to warrants and extensions to the periods of validity of building warrants;

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

364. 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);

365. 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);

366. preparing maps and responding to the Scottish Environmental Protection Agency (“SEPA”) in accordance with section 19 of the Flood Risk Management (Scotland) Act 2009;

367. 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;

368. responding to consultations by SEPA in accordance with section 30(4)(c) of the Flood Risk Management (Scotland) Act 2009;

369. 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;

370. 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;

371. 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;

372. publishing the local flood risk management plan as lead local authority in accordance with section 36(5) of the Flood Risk Management (Scotland) Act 2009 subject to the local flood risk management plan being approved by Council or Committee;

373. 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;

374. 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;

375. 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;

376. 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;

377. 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;

378. 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;

379. 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;

380. 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;

381. 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;

382. carrying out works which the Council has a duty to carry out under section 59 of the Flood Risk Management (Scotland) Act 2009;

383. responding to consultation by the Scottish Ministers on flood protection schemes (section 60(5) of the Flood Risk Management 7(Scotland) Act 2009;

384. 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;

385. 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;

386. keeping registers of flood protections schemes in accordance with sections 62 and 63 of the Flood Risk Management (Scotland) Act 2009;

387. 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;

388. responding to consultations on flood warnings in accordance with section 77 of the Flood Risk Management (Scotland) Act 2009;

389. entering land for the purposes of section 79(2)(a) to (i) of the Flood Risk Management (Scotland) Act 2009;

390. serving notice of right of entry in accordance with section 81 of the Flood Risk Management (Scotland) Act 2009;

391. paying compensation to persons who have sustained damage in accordance with sections 82 and 83 of the Flood Risk Management (Scotland) Act 2009;

392. assisting SEPA with transitional arrangements in accordance with section 85 of the Flood Risk Management (Scotland) Act 2009;

393. reporting incidents occurring at reservoirs in accordance with section 88 of the Flood Risk Management (Scotland) Act 2009;

394. 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;

395. 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;

396. 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;

397. 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;

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

399. 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;

400. exercising the duties and powers of the Council in accordance with the Reservoirs (Scotland) Act 2011; and

401. carrying out the duties and powers of the coast protection authority in accordance with the Coast Protection Act 1949.

### **City Strategy and Economy**

402. 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);

403. 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;

- 404. allocating space within property managed by Economic Development to relevant partners and agreeing the terms of such arrangements;
- 405. making changes to the opening hours of buildings managed by Economic Development as required for operational or budgetary reasons;
- 406. 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;

## **Culture**

- 407. devising and implementing cultural, heritage and events programmes;
- 408. organising museum and gallery exhibitions;
- 409. altering or waiving (in whole or in part) charges for hire of properties managed by the Service Director: Culture and Wellbeing where there are sound financial, operational or other justifiable reasons for doing so;
- 410. agreeing in principle and instructing the Executive Director of Place to conclude temporary leases of property managed by the Service Director, Culture and Wellbeing;
- 411. allocating space within property managed by the Service Director: Culture and Wellbeing 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;
- 412. making such changes to the opening hours of buildings operated by the Service Director, Culture and Wellbeing as are required for operational and budgetary reasons;
- 413. monitoring arms' length organisations which operate Culture facilities or services, or both, on the Council's behalf, including the Festival City Theatres Trust;
- 414 accepting and rejecting gifts or bequests to the Council's museums and galleries;
- 415. 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;

416. making recommendations and acting on the purchase of museum and gallery objects in accordance with Council Policy;

417. 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 (PAN2/2011), and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008;

418. establishing Friends and other groups to support the work of the service area;

419. 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;

420. buying individual items valued up to £1,000 for the Museum of Childhood collection using the Catherine E Cowper Trust's funds;

### **Public Safety**

421. 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

422. 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.

## **APPENDIX 6**

### **CHIEF PLANNING OFFICER**

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 **Chief** Planning Officer 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 Chief Planning Officer 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;

### **Local Development Plan Preparation**

4 considering the Local Development Plan Report of Examination, save where:

(b) grounds set out in the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 are engaged.

5 Publishing the Local Development Plan as modified after examination

### **Planning applications etc.**

6. determining applications (including retrospective applications) for planning permission, planning permission in principle, approval of matters specified in conditions, listed building consent, conservation area consent and consent to display an advertisement, provided that:

(a) the decision is in accordance with the statutory development plan (Strategic Development Plan and Local Development Plan);

(b) conditions added by the Development Management Sub-Committee are not removed or amended;

(c) where approval is recommended, not more than six material objections have been received from third parties except where the application is for listed building consent conterminous with an associated householder development;

(d) where approval is recommended and the application is for listed building consent conterminous with an associated householder development, not more than 20 material objections or a petition have been received from third parties;

(e) where refusal is recommended, not more than 20 material representations in support of the proposals have been received from third parties;

(f) where a petition has been submitted properly headed with material planning considerations, it has not more than 20 signatures of objection in relation to recommendations for approval and not more than 20 signatures of support in relation to recommendations for refusal, other than those cases relating to paragraph 6(d);

(g) Objections from statutory consultees, including community councils, are resolved in relation to applications recommended for approval and there are no outstanding support comments from community councils in relation to applications recommended for refusal.

(h) 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;

(l) 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;

(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;

(k) the application is not submitted by, or on behalf of, the Council (except for the approval of routine minor developments);

(l) 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;

(n) 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;

(o) the application is not for Hazardous Substance Consent;

(p) the Chief Planning Officer does not consider the application to be controversial or of significant public interest, or as having a significant impact on the environment; and

(q) the application does not meet the criteria approved by the Planning Committee for a hearing by the Development Management Sub-Committee;

7. 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 application does not raise a significant planning matter, leading to advice to refuse or to object;

(b) the Chief Planning Officer 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;

(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;

8. determining whether an application for planning permission will need to be accompanied by an Environmental Impact Assessment Report and responding to requests for any associated scoping opinion;

9. issuing an opinion in respect of a Pre-Application Screening request;

10. deciding whether the method of consultation is acceptable, or more is needed in respect of a Proposal of Application Notice;

11. 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;

12. signing a processing agreement in respect of a major application as defined in the hierarchy of development;



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

#### **Enforcement action**

24. 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;
25. initiating, progressing, serving notices 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;
- (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;

26. 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);
- (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**

27. making Tree Preservation Orders (with the Planning Committee approving the final order taking into account objections or representations received);
28. authorising or refusing 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 conditions as appropriate);
29. determining notifications for the felling, pruning, topping, lopping of trees or the carrying out of other prohibited works to trees in conservation areas;
30. serving, progressing, and concluding actions in respect of tree replacement notices, including any necessary follow up direct action;
31. investigating unauthorised works to protected trees and reporting offences to the Procurator Fiscal where considered appropriate;
32. 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**

33. 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**

34. 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;

35. 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;

36. 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;

37. extending the six-month period for concluding a legal agreement to nine months, provided meaningful progress is being achieved

### **Miscellaneous**

38. 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);

39. allocating new street numbers and, in consultation with the appropriate local ward councillors, changing street numbers and naming new streets;

40. 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);

### **Flooding**

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

**APPENDIX 7****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	Scientific Bereavement and Registration Service Senior Manager and Operation Manager – Public Analyst
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
Chief Social Work Officer	Social Work (Scotland) Act 1968	Chief Social Work Officer
Chief Education Officer	Education (Scotland) Act 2016	Chief Education Officer
Counting Officer	Parties, Elections and Referendums Act 2000	Chief Executive
Data Protection Officer	37-39 of General Data Protection Regulations	Information Governance Manager
Dog Catcher	section 149 of the Environmental Protection Act 1990	Dog Warden
Food Examiner	Section 30 of the Food Safety Act 1990	Scientific Bereavement and Registration Service Senior Manager and Operation Manager – Public Analyst

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.
Monitoring Officer	Section 5(1) of the Local Government and Housing Act 1989	Service Director: Legal and Assurance
Public Analyst	Sections 27 and 30 of the Food Safety Act 1990	Scientific Bereavement and Registration Service Senior Manager and Operation Manager – Public Analyst
Registrar of Births, Deaths and Marriages	Section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965	Chief Registrar/ Registration Services Manager
Returning Officer	Sections 25 and 41 of the Representation of the People Act 1983	Chief Executive

**APPENDIX 8**  
**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	Service Director: Legal and Assurance
Resignation of office by a member	section 34 of the Local Government (Scotland) Act 1973	Chief Executive
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	Service Director: Legal and Assurance
Compilation of background papers for inspection	section 50D of the Local Government (Scotland) Act 1973	All Executive Directors, Chief Executive
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	Executive Director of Corporate Services
Financial Administration	section 95 of the Local Government (Scotland) Act 1973	Service Director: Finance and Procurement
Education endowments	section 128 of the Local Government (Scotland) Act 1973	Service Director: Legal and Assurance
Ordnance Survey	section 145 of the Local Government (Scotland) Act 1973	Executive Director of Corporate Services



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

## **APPENDIX 9**

### **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. Deer (Scotland) Act 1996;
9. Housing (Scotland) Act 2006;
10. Hypnotism Act 1952;
11. Performing Animals (Regulation) Act 1925;
12. Pet Animals Act 1951;
13. Petroleum (Transfer of Licences) Act 1936;
14. Riding Establishments Acts 1964 and 1970;
15. Theatres Act 1968; and
16. 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;
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);
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. Single Use Carrier Bags Charge (Scotland) Regulations 2014;
53. Telecommunications Act 1984 (section 30);

- 54. Theatres Act 1968;
- 55. Timeshare Act 1992;
- 56. Trade Descriptions Act 1968;
- 57. Trademarks Act 1994;
- 58. Video Recordings Acts 1984 and 1993;
- 59. Water (Scotland) Act 1980;
- 60. Water Services etc. (Scotland) Act 2005;
- 61. Weights and Measures Act 198

## **Appendix 3 – Gold Book : Scheme of salaries and conditions of service for Chief Officials**

Scottish Joint Negotiating Committee  
for Chief Officials

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# SCHEME OF SALARIES & CONDITIONS OF SERVICE FOR CHIEF OFFICIALS

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Scottish Joint Negotiating Committee  
for Chief Officials

SCHEME of SALARIES &  
CONDITIONS of SERVICE  
FOR CHIEF OFFICIALS  
  
(2014)

Employers' Secretary  
Tel: 0131-474 9200  
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Officials' Secretary  
Tel: 0131-226 2662  
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## SCHEME OF SALARIES & CONDITIONS OF SERVICE FOR CHIEF OFFICIALS

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### INTRODUCTION

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The purpose of this Scheme is to provide a uniform basis for determining the salaries and related conditions of service of employees covered by the Scottish Joint Negotiating Committee.

The Scheme applies to any employee who is within the scope of the Committee as defined in the Constitution.

The Scheme does not apply to any post which is dealt with by other joint negotiating machinery on which the Convention of Scottish Local Authorities is represented.

The Constitution of the Scottish Joint Negotiating Committee is set out in Appendix C.

In applying this Scheme, each council must take actions which comply with statutory and regulatory legislation.

Conditions which are not covered by this Scheme and conditions contained in the Scheme but referred to as for local determination, are for consultation and negotiation with trade unions at a local level.

### 1 EQUALITIES

---

- 1.1 Employees should be afforded equal opportunities in employment irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
- 1.2 Each council should ensure that unlawful discrimination and harassment is eliminated and equality of opportunity promoted in all areas of employment including recruitment, training and development, pay, promotion and exit arrangements.
- 1.3 Each council will develop, publish and regularly review an equal pay statement.
- 1.4 Conditions of service are equally applicable to all employees irrespective of hours worked and employment status.

### 2 OFFICIAL CONDUCT

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- 2.1 Employees should maintain conduct of the highest standard such that public confidence in their integrity is sustained.

- 2.2 Each council will develop local codes of practice to cover the official conduct and the obligations of employees.

### 3 LEARNING AND DEVELOPMENT

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- 3.1 Each council should have arrangements to identify training needs in line with service plans.
- 3.2 Each council should have policies and arrangements which support learning and development for employees in line with council priorities with payment and time-off arrangements to be determined locally.
- 3.3 Part time employees should have access equal to that of full time employees and when on training courses outside their contracted daily hours, will be paid on the same basis as full time employees.

### 4 HEALTH, SAFETY AND EMPLOYEE WELLBEING

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- 4.1 Each council has a duty to comply with legislation governing the health, safety and wellbeing of all employees, including the conditions under which they work, the provision and maintenance of necessary personal protective equipment and relevant health surveillance.
- 4.2 Employees have a duty of care to themselves and others affected by their activity at work and to co-operate with actions taken by the council to meet their duties under the relevant regulations.

### 5 SALARIES

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- 5.1 Salaries for chief executives and all other chief officers within the scope of this Scheme will be determined as follows:

5.2 Chief Executives

The salaries for each chief executive will be set nationally and will comprise a three point incremental scale. Placement on and progression within the scale will be determined locally. A council may however choose to adopt a single point salary for the chief executive, in which case the council will apply the top point of the scale.

5.3 Other Chief Officers

For all other chief officers, spinal column points on which salaries may be based will be set nationally. The determination of each chief officer's salary will be at the discretion of each council. Councils are not required to use the spinal column points but must take into account relative levels of responsibility and any special factors affecting a particular post.

5.4 Preservation of Salary

Should any salary or structure review result in a reduced substantive salary for an employee, preservation arrangements, if any, will be determined locally.

### 6 LEAVE

---

- 6.1 Each council will ensure that employees receive their statutory entitlement to leave.

6.2 The entitlements to annual leave and public holidays as expressed below apply to five day working patterns. For alternative working patterns equivalent leave entitlements will be calculated pro rata to working hours. This may be expressed in hours over the leave year.

### 6.3 Public Holidays

Public holidays recognised by each council for its employees will be granted as holidays with pay. By local agreement some of these may be added to annual leave.

### 6.4 Annual Leave

6.4.1 Each council will set its leave year. The minimum paid full annual leave entitlement is twenty days. An employee who has at least five years continuous service at the start of the leave year will receive a further five days annual leave.

6.4.2 Where an employee has been absent through illness for a period exceeding three months each council will have discretion to limit the leave to an amount equal to the period of actual service given during the leave year, provided the period of leave (annual plus public) does not fall below the statutory minimum (currently twenty eight days).

6.4.3 The annual leave entitlement of an employee leaving or joining a council will be proportionate to their completed service during the leave year.

### 6.5 Special Leave

6.5.1 Additional leave with or without pay may be granted at the discretion of the council in special circumstances e.g. reserve forces and retained fire fighters.

6.5.2 Paid leave of absence will be granted to an employee undertaking jury service and paid leave of absence, with the approval of the council, will be granted to an employee serving on public bodies or undertaking public duties. Where an allowance is claimable for loss of earnings the employee should claim and pay will be amended accordingly depending on whether the allowance is paid direct to the employee or to the council.

6.5.3 An employee will be entitled to take such reasonable time off without loss of pay as is required, in accordance with locally determined arrangements, for the purpose of preventative medical examination.

6.5.4 Each council is encouraged to develop policies which recognise the particular requirement of employees with responsibilities for children and dependants.

6.5.5 Each council should grant, in appropriate cases, paid leave of absence to employees attending meetings concerned with Scottish Joint Negotiating Committee affairs, or other such matters relating to national developments impacting on councils.

## 7 SICKNESS PROVISIONS

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7.1 The management of sickness absence is for each council to determine. Each council should develop sickness absence procedures, which support attendance management. An employee's entitlement to sickness allowance is determined by paragraphs 7.2 to 7.8 below.

### 7.2 Sickness Allowance

7.2.1 The provisions relating to sickness allowance are set out in paragraph 7.3. The allowance is complementary to any statutory based payments which an employee may receive and is subject to a range of conditions, many of which are additional to those applying to the statutory based payments.

- 7.2.2 An employee is not entitled to receive sick pay unless the council's notification procedures are followed including submission of a medical statement at appropriate intervals and completion of any other self-declaration or other forms as required by the council's procedures.
- 7.2.3 Where, for the purpose of qualifying for sick pay, a council requires a medical statement from an employee, the council may, with exception of the requirements outlined at 7.2.2 and with the exception of sub-clause 7.8.1, reimburse the employee the costs of such a statement on the provision of a receipt.
- 7.2.4 An employee who falls sick during the course of annual leave will be regarded as being on sick leave from the date of a medical statement.
- 7.2.5 Where an employee is receiving sick pay, sick pay will continue if a public holiday recognised by the council for its employees falls during such sickness absence. No substitute public holiday will be given. Where an employee has exhausted sickness allowance entitlement, no payment should be made in respect of a public holiday occurring during the period of absence.

### 7.3 Payment and Period of Allowance

- 7.3.1 An employee's entitlement to sickness allowance will depend on length of continuous service as follows:

SERVICE AT START OF ABSENCE FROM WORK	FULL ALLOWANCE FOR	HALF ALLOWANCE FOR
Less than 26 weeks	Nil	Nil
26 weeks or more but less than 1 year	5 weeks	5 weeks
1 year but less than 2 years	9 weeks	9 weeks
2 years but less than 3 years	18 weeks	18 weeks
3 years but less than 5 years	22 weeks	22 weeks
5 years and over	26 weeks	26 weeks

- 7.3.2 In exceptional circumstances a council may extend the period of full allowance or half allowance outlined in 7.3.1.
- 7.3.3 The period during which sick pay will be paid, and the rate of sick pay in respect of any period of absence, will be calculated by deducting from the employee's entitlement on the first day, the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence, except that neither the aggregate nor the twelve month period shall include any periods of absence on unpaid leave. The aggregate of such previous periods of sickness allowance will be deducted in the first instance from the full allowance period and the balance from the half allowance period to which the employee is entitled in respect of the latest absence.

### 7.4 Calculation of Allowance

- 7.4.1 In the case of full pay periods, sick pay will be an amount which when added to Statutory Sick Pay and Employment and Support allowance receivable, will secure the equivalent of normal pay.

- 7.4.2 In the case of half-pay periods, sick pay will be an amount equal to half normal earnings plus an amount equivalent to Statutory Sick Pay and Employment and Support allowance receivable, so long as the total sum does not exceed normal pay.
- 7.4.3 Normal pay will be as defined by an employee's contract but will normally include all earnings that would be paid during a period of normal working, excluding any payments not made on a regular basis.
- 7.4.4 The state benefits to be taken into account for the calculation of sick pay are those to which an employee is entitled on the basis that the employee has satisfied, so far as is possible:
- i) The council's absence management arrangements;
  - ii) The claiming of benefits;
  - iii) The obligation to declare any entitlements to benefits and any subsequent changes in circumstances affecting such entitlement.
- 7.5 Sickness or Disablement due to an Accident in the Course of Employment.
- 7.5.1 Absence in respect of normal sickness is entirely separate from absence through industrial disease or injury arising out of, or in the course of, employment with a council. Periods of absence in respect of one will not be offset against the other for the purpose of calculating entitlements.
- 7.5.2 An absence due to an accident will only qualify for payment under this paragraph when an entry in the council's Accident Book has been completed, any other local procedures are followed by the employee, and any subsequent investigation by the council into the facts recorded find these to be accurate and the absence to be as a result of an accident.
- 7.5.3 Every effort must be made to ensure that all accidents are entered in the Accident Book including those where the employee, as a result of the accident, is unable to make the entry personally. In circumstances where no entry is made at the time of the accident, the council should not unreasonably refuse the payment of industrial injury allowance. The council will still need to carry out the required investigation into the accident to establish the facts. If that investigation establishes that an accident took place arising out of or in the course of employment, the employee will nonetheless be entitled to the industrial injury allowance, despite the fact that no entry has been made in the Accident Book.
- 7.6 Medical Examination
- 7.6.1 An employee will, if required by the council at any time, attend a medical examination by a medical practitioner nominated by the council, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. Any costs associated with the examination will be met by the council. Where it is necessary to obtain a second medical opinion, it should be provided by an independent medical referee nominated by the council.
- 7.7 Infectious Diseases
- 7.7.1 An employee who is prevented from attending work because of contact with infectious disease will advise their department immediately and will be entitled to receive normal pay. The period of absence on this account will not be reckoned against the employee's sickness allowance entitlement.
- 7.8 Exclusions
- 7.8.1 There is no entitlement to sickness allowance if an employee:
- Has less than 26 week's continuous service;



- Goes sick during a stoppage of work at the place of employment due to a trade dispute, unless covered by a medical certificate;
- On the first day of sickness has already exhausted or subsequently exhausts sickness allowance entitlement (see paragraph 7.3);
- On the first day of sickness is in legal custody or is subsequently taken into legal custody;
- Fails to satisfy or to continue to satisfy the notification or certification requirements;
- Is absent on maternity leave;
- Terminates or has their contract of employment terminated.

7.8.2 Sick pay may be suspended if an employee abuses the sickness scheme or is absent on account of:

- i) Sickness due or attributable to deliberate conduct prejudicial to recovery;
- ii) The employee's own misconduct or neglect;
- iii) Active participation in professional sport;
- iv) Injury while working in the employee's own time on their own account for private gain or for another employer;
- v) Other criteria as specified by the council.

7.8.3 The council will advise the employee of the ground for suspension and the employee will have a right of appeal through the council's grievance arrangements. If the council decides that the grounds were justified then the employee will forfeit the right to any further payment in respect of that period of absence. Repeated abuse of the sickness scheme should be dealt with under the council's disciplinary arrangements.

7.8.4 An employee who is paid any damages as the result of an accident will be required to re-pay any sickness allowance paid, either in total or the proportion thereof represented in the amount of damages received. Any period of absence in such a case where a refund is made in full, will not be treated as sickness absence.

## 8 FAMILY LEAVE

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### 8.1 Maternity Leave

8.1.1 An employee is entitled to 52 weeks maternity leave (ML) regardless of length of service.

8.1.2 ML can begin from a date not earlier than the 11th week before the expected week of childbirth (EWC), unless childbirth has taken place prior to this.

8.1.3 ML can commence on any day of the week.

8.1.4 During ML, all of the employee's contractual terms and conditions, with the exception of pay, continue to apply.

8.1.5 An employee is required to take compulsory ML of 2 weeks, starting on the day on which the childbirth occurs.

8.1.6 An employee must comply with the notification procedures determined by the council in order to qualify for the maternity leave provisions.

8.1.7 A pregnant employee shall be allowed to take reasonable time off, without loss of pay, as is required to attend antenatal care and must follow the council's procedures for the notification of a request for this time off.

8.1.8 Where an employee is absent before the start of the ML period due to illness, the absence will be treated as sickness absence. This includes absence due to still birth or neonatal death prior to the 24th week of pregnancy. It excludes absences due to a pregnancy related illness which occurs 4 weeks or less before an employee's baby is due, in which case she will be deemed to have commenced ML.

## 8.2 Maternity Pay

8.2.1 An employee with less than 26 weeks' continuous service at the beginning of the 15th week before the EWC will have no entitlement to maternity pay. She may, however, be entitled to Maternity Allowance and should be referred to the appropriate government department for this purpose.

8.2.2 An employee with at least 26 weeks' continuous service at the beginning of the 15th week before the EWC is entitled to:

- i) Occupational Maternity Pay (OMP) for the first six weeks of absence paid at nine-tenths of a week's pay offset against payments made by way of Statutory Maternity Pay (SMP) or Maternity Allowance (MA) where eligible. Payment will not be higher than a normal week's pay.
- ii) OMP for the subsequent 12 weeks of absence paid at half a week's pay plus SMP (or MA and / or any other dependents allowance), without deduction, provided payments are not higher than a normal week's pay.
- iii) SMP only, for the subsequent 21 weeks or, 90% of average weekly earnings if this is less than the current rate of SMP.
- iv) The remainder of maternity leave will be unpaid.
- v) Normal pay will be as defined by an employee's contract but will normally include all earnings that would be paid during a period of normal working, excluding any payments not made on a regular basis.

8.2.3 Payments made by the council during maternity leave will normally be on the understanding that the employee will return to council employment for a period of at least three months. Statutory payments to the employee are not refundable.

8.2.4 With the exception of Keeping In Touch Days, as outlined in legislation, when an employee returns to work before the full ML period ends, her entitlement to any balance of maternity leave and maternity pay will cease. The employee will receive her normal salary from the date of her return to work.

## 8.3 Sickness Absence and Annual Leave on Return to Work

8.3.1 Where an employee is unable to return to work on the notified end date of her ML due to sickness absence, normal sickness absence procedures will apply.

8.3.2 Annual leave shall accrue during the full period of maternity leave and should be taken by the employee in accordance with the council's local policy. Where an employee gives notice that she does not intend to return to work at the end of her ML period, the council will make a payment in lieu of leave accrued during the ML period.

#### 8.4 Adoption Leave

- 8.4.1 Each council will develop a local policy for adoption leave which will normally mirror the arrangements in place for maternity leave. Maternity leave, pay and other arrangements outlined in this Scheme, will also apply to adoption leave.
- 8.4.2 An employee must comply with the notification procedures outlined in the council's policy in order to qualify for the adoption leave provisions.
- 8.4.3 An employee who is adopting shall be allowed to take reasonable time off without loss of pay, as required, to attend pre-adoption meetings and must follow council procedures for the notification of a request for this time off.

#### 8.5 Paternity, Maternity/Adoption Support and Parental Leave

- 8.5.1 Support leave of five days with normal pay (pro rata for part time/part week employees), will be granted to the spouse or partner or nominated carer of an expectant mother or of someone taking adoption leave, at or around the time of the birth or placement. The nominated carer is the person nominated by the mother or the person taking the adoption leave to assist in the care of the child and to provide support to her/him. This is available to all employees who have a minimum of 26 weeks continuous service at the start of the 15th week before the EWC or date of placement of a child.
- 8.5.2 Each council will develop procedures which must be followed in relation to the notification of requests for such leave.
- 8.5.3 In addition and in accordance with legislation, each council will develop and publish policies to notify employees of their entitlement to:
- i) Ordinary Paternity Leave of one week paid at the rate of Statutory Paternity Pay;
  - ii) Additional Paternity Leave of up to 26 weeks with payment being in accordance with legislation;
  - iii) Parental Leave of up to 13 weeks for each child or 18 weeks for each disabled child, which will be unpaid.

### 9 PERIOD OF NOTICE TO TERMINATE EMPLOYMENT

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- 9.1 The minimum period of notice to be given by a council is governed by the Employment Rights Act 1996:

SERVICE	PERIOD OF NOTICE
One month or more but less than two years	Not less than one week
Two years or more but less than twelve years	Not less than one week for each year of continuous service
Twelve years or more	Not less than twelve weeks.

- 9.2 The period of notice to terminate employment to be given by an employee will be determined locally by each council.

## 10 CONTINUOUS SERVICE

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- 10.1 For the purpose of entitlements regarding annual leave, sickness allowances and maternity leave and pay, continuous service will include continuous previous service with any public authority to which The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 as amended, applies.
- 10.2 Where an employee returns to local government service following a break for maternity reasons, they will be entitled to have previous service taken into account in respect of sickness and maternity leave and pay, provided that the break in service does not exceed eight years and that no paid employment has intervened. For the purpose of the calculation of entitlement to annual leave the eight years time limit does not apply provided that no paid employment has intervened.
- 10.3 For the purpose of entitlement to period of notice from the council to terminate employment, continuous service is continuous service with that council.

## 11 GRIEVANCE

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- 11.1 Each council will have a locally determined grievance procedure which will apply to chief officers. Should a chief executive have a grievance, they should initially raise the grievance with the Leader of the Council. Should, after consideration by the Leader the chief executive remain dissatisfied, then the matter should be considered by the Appeal Committee (or other relevant body within the council).

## 12 DISCIPLINE AND CAPABILITY

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- 12.1 It is recognised that discipline is essential for the proper and efficient conduct of a council's affairs. It is also recognised that disciplinary action must be applied fairly and that employees should have the right of appeal against any disciplinary action taken against them.
- 12.2 While each council will have a locally determined disciplinary procedure for chief officers, where an allegation of misconduct is made against a chief executive, it is recognised that the procedure must reflect the seniority of this post as head of paid service. In this regard, councils will follow the disciplinary framework detailed in Appendix A. The framework meets legal requirements and is in line with the ACAS Code of Practice.
- 12.3 The Disciplinary Framework is designed to deal with any allegation of misconduct against a chief executive. Any question or complaint as to the capability of the chief executive to fulfil the duties and responsibilities of the post, including any alleged failure by the chief executive to establish and maintain a satisfactory working relationship with the council, is not a disciplinary matter. Appendix B provides a Capability Framework for councils to follow should any such complaint or question arise.

## 13 TRAVEL ALLOWANCES

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- 13.1 Where a council authorises an employee to use a form of transport in the course of their work they will be reimbursed in accordance with locally determined arrangements.

## 14 REIMBURSEMENT OF EXPENDITURE

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- 14.1 An employee necessarily incurring additional expense in the course of their work in respect of meals or overnight accommodation will be reimbursed approved expenses, subject to appropriate evidence of expenditure being produced, in accordance with locally determined arrangements.

## 15 ISLANDS ALLOWANCE

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- 15.1 An annual allowance, determined nationally, will be paid to an employee employed by an island council and to an employee based on Tiree, Coll or Colonsay. This allowance will be increased each year in accordance with the Average Weekly Earnings Index.

## 16 FEES FOR RETURNING OFFICERS

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- 16.1 The fees for Returning Officers will be determined nationally.

## 17 TRADE UNION FACILITIES

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- 17.1 Each council will provide the recognised trade unions with facilities necessary to carry out their functions in accordance with the ACAS Code of Practice. This will include paid leave of absence to attend relevant meetings concerned with the work of the Scottish Joint Negotiating Committee for Chief Officials.

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## CHIEF EXECUTIVE DISCIPLINARY FRAMEWORK

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In following this framework it should be noted that:

- Indicative timescales are provided at various stages of the framework. These can be varied to tie in with timescales adopted locally for other chief officers. Any chief executive subject to action under this framework will at the outset be advised of the timescales which will apply.
  - At various stages of the framework, reference is made to the head of human resources. It is essential that professional support and advice is available, but it is for each council to determine within their own structure who provides such support and advice.
  - Elected members and professional advisers will declare any personal interest they have in the case and consideration will be given to them not taking part in any proceedings depending on the nature of that interest.
  - It is for each council to determine who presents any case against the chief executive at a disciplinary hearing and similarly who presents at any subsequent appeal hearing.
  - It is for each council to determine the disciplinary sanctions and the length of time any warnings remain 'live' but these will be consistent with those which apply to other chief officers.
  - The framework makes reference to the chief executive being represented. That representation will be consistent with that which applies within the council's disciplinary procedure for other chief officers.
1. When faced with an allegation(s) of misconduct against the chief executive, initial consideration will be given to the allegation(s) to determine whether the matter should be formally investigated and whether suspension is appropriate.

The allegation(s) will initially be discussed between an appropriate senior officer(s) e.g. the head of human resources and/or the monitoring officer and the Leader of the council.

The Leader will appoint an Assessment Group. This group will be made up of a cross party group of elected members representing, as far as is practicable, the political balance of the council. Members of the group will not participate in the remaining stages of the procedure, unless the size of the council is such that there are insufficient numbers of elected members to resource each of the stages independently.

The head of human resources will be available to assist the group.

The head of human resources will verbally make the chief executive aware of the allegation(s) and that an Assessment Group is being called to consider the matter. The chief executive may wish to

make initial observations to the head of human resources. If agreed with the chief executive the head of human resources will share these with the Assessment Group.

The Assessment Group will be advised of the allegation(s) against the chief executive, and if previously agreed, initial observations from the chief executive. It is unlikely that much detail will be known, but in any event, the purpose of the group at this stage is solely to decide whether a formal investigation is required. If the decision is taken to proceed to formal investigation the Assessment Group will also, depending on the nature of the allegation(s), consider whether suspension, which must be on full pay, is appropriate.

A note of the meeting and decision will be taken.

The decision of the Assessment Group will be communicated in writing to the chief executive.

## **2. Should the matter proceed to formal investigation, an Investigating Officer will be appointed to conduct a formal investigation into the allegation(s).**

The Investigating Officer will be agreed between, and be independent of both, the council and the chief executive. In the event of a failure to agree it will be for the Joint Secretaries to the SJNC to recommend an Investigating Officer.

The investigation should be conducted within a reasonable period. If the investigation is likely to extend beyond 4 weeks following appointment of the Investigating Officer, the chief executive will be kept informed of progress.

It is for the Investigating Officer to determine how best to investigate the allegation(s). However, the Investigating Officer will be expected to:

- Meet the chief executive to discuss, and question the chief executive on, the allegation(s). The chief executive should be given a minimum of 5 working days notice of such a meeting and be advised of the right to be accompanied at that meeting.
- Meet with and interview any witnesses to or parties associated with the allegation(s), a statement being prepared to record each interview.
- Review any documentation associated with the allegation(s).

At the conclusion of the investigation, the Investigating Officer will prepare a report for the Assessment Group outlining the findings of the investigation. The report will include a recommendation as to whether the Investigating Officer considers there are sufficient grounds to the allegation(s) to warrant proceeding to a disciplinary hearing.

The Assessment Group will be reconvened to consider the report from the Investigating Officer.

The group, following consideration of the report from the Investigating Officer, will decide if a disciplinary hearing should be convened. The group will also indicate whether, having considered the report, they consider the allegation(s), if substantiated, constitute misconduct or gross misconduct. If gross misconduct and the chief executive has not already been suspended, then they will reconsider suspension at this stage, such suspension being on full pay.

The chief executive will be advised in writing of the decision of the Assessment Group no later than 5 working days following the meeting of the group. A copy of the report from the Investigating Officer will accompany that letter.

Where the Assessment Group decision is that no further action is necessary, no record of the allegation(s) will be entered on the chief executive's personal file.

3. Should the Assessment Group consider that the matter should proceed to a disciplinary hearing, a Hearing Committee will be set up and formal notification issued to the chief executive of the hearing.

The Hearing Committee will exclude members of the Assessment Group and, as far as is practicable, be made up of a cross party group of elected members representing the political balance of the council.

The head of human resources will advise the Committee. A record of the meeting and decision reached will be taken.

The chief executive will be given a minimum of 5 working days prior notice in writing of the Hearing. The letter will provide full details of the allegation(s), an indication of whether the allegation(s) if substantiated, may constitute misconduct or gross misconduct and the implications of this, i.e. gross misconduct may result in dismissal, advise that the Committee will refer to the report from the Investigating Officer and advise of any witnesses that may be called. The letter will also advise the chief executive of their right to be represented at the hearing and ask the chief executive (or their representative) to provide in advance of the hearing any relevant papers that they may present as part of their case and the names of any witnesses they may wish to call.

The chief executive may seek a postponement of the hearing to enable representation; such postponement should be for no more than 10 working days.

Conduct of the Hearing: The purpose of the Hearing Committee is to ensure that a fair hearing is conducted into the allegation(s) so that a reasonable decision can be made, based on the information presented. The conduct of the hearing will be as follows:

- A representative on behalf of the Assessment Group will present their case.
- Members of the Hearing Committee and the chief executive (or their representative) will have the opportunity to question the Assessment Group representative and any witnesses called.
- The chief executive (or their representative) will present their case.
- Members of the Hearing Committee and the Assessment Group representative will have the opportunity to question the chief executive (or representative) and any witnesses called.
- The representative of the Assessment Group will summarise their case, introducing no new evidence.
- The chief executive (or their representative), will summarise their case introducing no new evidence.
- Both parties will withdraw to enable the Hearing Committee to make a decision in private.
- Following the recess, the parties will reconvene and the convener of the Hearing Committee will advise the chief executive of the Committee's decision. If the Hearing Committee is unable to provide a decision on the day of the Hearing, they will reach a decision as soon as possible but in any event, the decision will be confirmed in writing to the chief executive within 5 working days. The letter will also include details of to whom the chief executive can appeal the decision of the Hearing Committee, should they wish to do so, together with the associated timescale.

Sanctions: If the allegation(s) against the chief executive are considered to have been substantiated, any disciplinary action taken should be reasonable in the circumstances taking into account the seriousness and any mitigation presented.



In the case of a first offence, other than for gross misconduct, the sanction should normally be a written or final written warning. Where a written warning had previously been issued and the chief executive has committed a similar offence or a subsequent different but equally serious offence, the Hearing Committee may issue a final written warning or more serious sanction. A chief executive should normally be given a final written warning regarding their conduct before dismissal is contemplated. However, it should be noted that there may be cases of gross misconduct so serious that summary dismissal without notice is appropriate.

Notwithstanding the above, the disciplinary action taken will be in line with the sanctions contained within the council's disciplinary procedure for all other chief officers.

Similarly, examples of what constitutes gross misconduct will be as per the disciplinary procedure for other chief officers.

Should the allegation(s) be found to be not substantiated and no disciplinary action taken no record of the allegation(s) will be entered on the chief executive's personal file.

**4. Should the chief executive appeal the decision of the Hearing Committee, a meeting of the Appeal Committee (or other relevant body within the council), will be arranged to consider the appeal.**

The Appeal Committee will exclude members of the Hearing Committee and, as far as is practicable, be made up of a cross party group of elected members representing the political balance of the council.

The head of human resources will advise the committee. A record of the meeting and decision reached will be taken.

The Appeal Committee will ideally be held within 20 working days of receipt of the appeal.

The chief executive will be given a minimum of 5 working days prior notice in writing of the date of the Appeal Hearing and be provided with a copy of any associated paperwork that will be presented on behalf of the Hearing Committee. The letter will advise the chief executive of their right to be represented at the Appeal, advise of any witnesses that may be called and ask the chief executive (or their representative) to provide in advance of the appeal any documentation that they intend to refer to and the names of any witnesses they may call.

The conduct of the Appeal Hearing will follow that of the Disciplinary Hearing, however it will be for the chief executive (or representative) as appellant to present their case first and be allowed to summarise their case last.

It is the responsibility of Appeal Committee to determine whether the appeal from the chief executive should be upheld, upheld in part or dismissed. If upheld in part the Appeal Committee must also determine the impact of this decision on any sanction implemented by the Hearing Committee.

The convener of the Appeal Committee will advise the chief executive of the decision of the Appeal Committee. If the committee is unable to reach a decision at the conclusion of the Hearing they will do so as soon as possible but in any event the decision will be confirmed in writing to the chief executive within 5 working days of the date of the hearing.

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## CHIEF EXECUTIVE CAPABILITY FRAMEWORK

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The Capability Framework is based on the Disciplinary Framework in Appendix A, adapted as detailed below, and should therefore be read in conjunction with that framework.

1. In the first instance any question or complaint with regard to a chief executive's capability will be referred to an Assessment Group which will be appointed as per section 1 of Appendix A.
2. The Assessment Group will meet with the chief executive to discuss the nature of the complaint or question.
3. If the Assessment Group concludes that there is a question of substance as to the chief executive's capability they will advise the chief executive of the ways in which performance should improve and a period of time after which the matter will be reviewed. This period should be sufficient to allow the chief executive a reasonable opportunity to show the required level of improved performance.
4. If the Assessment Group consider that there is evidence of serious incapability which is not likely to be remedied within a reasonable period of time, or if a previous warning has been issued to the chief executive in regard to performance then the Assessment Group will refer the matter to an Investigating Officer.
5. Similarly if subsequent to 3 above there remains a question as to the capability of the chief executive the matter will be referred to an Investigating Officer.
6. The Investigating Officer will be appointed and the investigation conducted as per section 2 of Appendix A
7. Upon receipt of the report from the Investigating Officer the Assessment Group will decide whether or not the matter should proceed to a Hearing Committee.
8. The Hearing Committee will be appointed as per section 3 of Appendix A. The conduct of the hearing will be as per section 3 of Appendix A.
9. If the Hearing Committee conclude that the chief executive is not carrying out his/her duties and responsibilities to the level of capability that the council believes is required, the Hearing Committee will consider issuing a written warning with the provision of a reasonable amount of time for the chief executive to meet the requirements of the post, or (if a previous warning has been issued or, the Hearing Committee judge the incapability to be fundamentally irremediable) confirm dismissal with notice. A satisfactory outcome may alternatively be achieved by the chief executive actively seeking other employment, resigning or accepting retirement.
10. The chief executive will have the right to appeal the decision of the Hearing Committee to an Appeal Committee (or other relevant body within the council). The appointment of that committee and conduct of the appeal will be as per section 4 of Appendix A.

## Scottish Joint Negotiating Committee for Chief Officials

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### CONSTITUTION

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#### 1 NAME OF ORGANISATION

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The Committee will be known as the Scottish Joint Negotiating Committee for Chief Officials of Local Authorities, hereinafter referred to as "the Committee".

#### 2 SCOPE

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The Committee will cover council Chief Executives (head of paid services) and any officer regarded by a council as a Chief Officer. This is for local determination but will normally include those reporting directly to the chief executive as well as their immediate reports.

#### 3 MEMBERSHIP

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- a) The Committee will have 12 members, 6 to represent the employers and 6 to represent the employees.
- b) The 6 employers' representatives will be appointed by the Convention of Scottish Local Authorities.
- c) The 6 employee representatives will be appointed as follows:

<b>UNISON</b>	2 representatives
<b>GMB</b>	2 representatives
<b>ALACE</b>	2 representatives

- d) If any of the bodies referred to in paragraphs (b) and (c) do not appoint the number of representatives provided for by the constitution, failure to appoint will not invalidate the decisions of the Committee.
- e) In the event of any member of the Committee or any of its sub-groups being unable to attend any meeting the body represented by the member will be entitled to appoint a substitute to attend the meeting. A substitute for a member of a sub-group will be appointed only from amongst the remaining members of the Committee.
- f) The members of the Committee will retire annually immediately prior to the annual general meeting and be eligible for re-appointment. A member will retire from the Committee on ceasing to be a member of the body by which they were appointed.

- g) If a vacancy arises, a new member will be appointed by the body who the previous member represented and will be a member until the end of the period for which the previous member was appointed.

## 4 FUNCTIONS OF COMMITTEE

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Scottish local government employers and trade unions plan to develop a fair and progressive employment agenda to support innovative quality service delivery. This principle will underpin all of the Committee's agreements and activities.

The functions of the Committee are as follows:

- To support and develop a national framework which will contribute to the development of a highly skilled and motivated workforce.
- To negotiate sustainable collective agreements on employment related matters.
- To promote and support the application of such agreements for local government and its employees.
- To promote co-operation between employers and recognised unions throughout local government.
- To support the promotion of equality and the elimination of discriminatory practices in employment.
- To support the development and adoption of local codes of practice to cover the conduct and obligations of employees and employers.
- To support the development and implementation of training and development initiatives and to ensure their integration into broader employee development strategies.
- To provide advice and assistance to councils, recognised unions and employees on employment related issues.
- To settle differences of interpretation and/or application of the national agreement that cannot be resolved locally.
- To provide a national conciliation service for the resolution of disputes that cannot be resolved locally.
- To undertake any activity incidental to the above.

## 5 SUB-GROUPS

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The Committee may establish, from its own membership, sub-groups as it considers necessary. Reports from sub-groups will be submitted to the Committee. The Committee when establishing a sub-group may delegate special powers to the sub-group, in such cases reports to the Committee will be submitted for information.

## 6 CONVENER AND VICE-CONVENER

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The Committee will appoint from amongst its membership a convener and vice convener who will retire in the same manner as provided for members in paragraph 3. Convenership of the Committee will be held in alternative years by a member of the Employers' Side.

In the absence of the convener, the vice convener will preside at the meetings of the Committee. If neither the convener nor the vice convener is present, a chair will be elected for the meeting.

The convener will have a vote but not a casting vote.

The convener and vice convener will be members of all sub-groups established by the Committee.

## 7 OFFICERS

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The Committee will appoint joint secretaries, and any other officers as it thinks fit. These officers will retire in the same manner as is provided for members in paragraph 3 and will be eligible for re-appointment.

## 8 ADVISERS

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The Convention of Scottish Local Authorities and the Employees Side may appoint an appropriate official or officials to act as advisers; such officials will only serve in a consultative capacity.

## 9 OTHERS INVITED TO ATTEND MEETINGS

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The Committee or a sub-group may invite any persons whose special knowledge would be of assistance to attend and speak at its meetings. Such persons will not have the power to vote.

## 10 MEETINGS

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The annual meeting of the Committee will be held during the month of November.

Ordinary meetings of the Committee will be held as necessary.

The convener will call a special meeting of the Committee if so requested by either side. The notice summoning the meeting will state the nature of the business to be transacted and may include any other matters which were not the reason for the request for the special meeting.

All notices of meetings of the Committee and of sub-groups will be issued to the respective members at least seven days before the meeting.

## 11 VOTING

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Voting at Committee and sub-group meetings will be by show of hands or otherwise as the Committee or sub-group determines. No resolution will be carried unless it is approved by the majority of the members present and voting on each side of the Committee or sub-group.

## 12 NOT ENOUGH MEMBERS PRESENT

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If fewer than one third of the members of the Committee divided equally between the two sides are present at the start of the meeting, the convener will declare the meeting closed and the business then under discussion will be the first business to be discussed at the next meeting of the Committee. The required number of members to be present at a meeting of a sub-group will be determined by the Committee.

### 13 ARBITRATION

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In the event of the Committee failing to reach agreement over nationally determined terms and conditions of employment both sides may agree to refer the matter to ACAS for submission to arbitration.

### 14 FINANCE

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The administrative expenses of the Committee (excluding expenses of representatives which will be met by the respective sides) and its sub-groups will be borne equally by the two sides.

### 15 AMENDING THE CONSTITUTION

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The constitution may only be amended with the agreement of the Convention of Scottish Local Authorities, and the three trade unions referred to in paragraph 3.