



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

## **North Ayrshire Council**

A Meeting of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 18 May 2022** at **13:00** to consider the undernoted business.

### **Hybrid Meeting Arrangements**

This meeting will be held on a predominantly physical basis but with provision, by prior arrangement, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003. A limited public gallery will be available and the meeting will also be live-streamed for wider viewing and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>.

#### **1 Apologies**

#### **2 Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

#### **3 Report of the Returning Officer**

Submit report by the Chief Executive and Returning Officer on the outcome of the Elections to North Ayrshire Council held on Thursday 5 May 2022 and on the Declaration of Acceptance of Office by all Elected Members (copy enclosed).

#### **4 Election and Designation of Provost**

In terms of Section 4 (1) of the Local Government etc. (Scotland) Act 1994, the Council is required to elect a Convenor from among its Councillors, to be designated as "Provost".

## **5 Election and Designation of Depute Provost**

In terms of Section 4 (2) of the Local Government etc. (Scotland) Act 1994, the Council may elect a Vice-Convenor from among its Councillors, to be designated as "Depute Provost".

## **6 Declarations of Acceptance of Office**

The Head of Democratic Services will report on Declarations of Acceptance of Office.

## **7 Formation of Party Political Groups on the Council - Indication of Political Groups on the Council**

(a) The Chief Executive will report on those political groups to be formally recognised by the Council and (b) The Provost will seek indications of whether the party whip is to be applied to any item of business.

## **8 Appointment of Leader and Depute Leader of the Council**

The Chief Executive will report on nominations to the positions of Leader of the Council and Depute Leader of the Council.

## **9 Governance Documents**

The Council is invited to consider the suite of Governance Documents which regulate the operation of Council, its committees and Officers.

### **9.1 Scheme of Administration**

Submit report by the Chief Executive on the Council's Scheme of Administration (copy enclosed).

### **9.2 Standing Orders Relating to Meetings and Proceedings of the Council and Committees**

Submit report by the Chief Executive on the Standing Orders relating to Meetings and Proceedings of the Council and Committees (copy enclosed).

### **9.3 Scheme of Delegation to Officers**

Submit report by the Chief Executive on the Council's Scheme of Delegation to Officers (copy enclosed).

#### **9.4 Other Key Governance Documents**

Submit report by the Chief Executive on other key governance documents regulating the operation of the Council and its officers (copy enclosed).

#### **10 Councillors' Remuneration: Senior Councillors**

Submit report by Head of Service (Finance) on the Councillor remuneration levels, and to seek confirmation of those posts appointed as Senior Councillor (copy enclosed).

#### **11 Committee Timetable: Remainder of 2022**

Submit report by the Chief Executive on a proposed timetable of meetings for the period from May until the end of December 2022 (copy enclosed).

#### **12 Appointments to Committees**

Submit report by the Chief Executive on the appointment of Members and, where appropriate, lay representatives, to committees of the Council in line with the Scheme of Administration, including confirmation of the appointment of Chairs (and Vice Chairs, where appropriate) (copy enclosed).

#### **13 Appointments to Outside Bodies**

Submit report by the Chief Executive on a number of potential appointments to outside bodies and to invite nominations to fill Elected Member positions (copy enclosed).

#### **14 Urgent Items**

Any other items which the Provost considers to be urgent.

## **Webcasting**

Please note: this meeting may be filmed for live and subsequent broadcast via the Council's internet site. At the start of the meeting, the Chair will confirm if all or part of the meeting is being live-streamed/webcast.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the live-stream/webcast will be retained in accordance with the Council's published policy, including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Generally, the press and public seating areas will not be filmed. However, by entering the Council Chambers and using the press or public seating area, you are consenting to being filmed and consenting to the use and storage of those images and sound recordings and any information pertaining to you contained in them for webcasting or training purposes and for the purpose of keeping historical records and making those records available to the public. If you do not wish to participate in a recording, you should leave the meeting at this point. This will constitute your revocation of consent.

If you have any queries regarding this and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact [dataprotectionofficer@north-ayrshire.gov.uk](mailto:dataprotectionofficer@north-ayrshire.gov.uk).

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## North Ayrshire Council Sederunt

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John Bell  
Timothy Billings  
Marie Burns  
Eleanor Collier  
Joe Cullinane  
Scott Davidson  
Anthea Dickson  
Stewart Ferguson  
Todd Ferguson  
Robert Foster  
Scott Gallacher  
John Glover  
Tony Gurney  
Alan Hill  
Cameron Inglis  
Margaret Johnson  
Amanda Kerr  
Christina Larsen  
Shaun Macaulay  
Jean McClung  
Nairn McDonald  
Matthew McLean  
Louise McPhater  
Davina McTiernan  
Tom Marshall  
Jim Montgomerie  
Ian Murdoch  
Donald Reid  
Donald L Reid  
Chloe Robertson  
Ronnie Stalker  
Angela Stephen  
John Sweeney

Chair:

Apologies:

Attending:



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**NORTH AYRSHIRE COUNCIL**
**18 May 2022**
**North Ayrshire Council**


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**Title:** **Report of the Returning Officer**


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**Purpose:** To advise of the outcome of the Elections to North Ayrshire Council held on Thursday 5 May 2022 and on the Declaration of Acceptance of Office by all Elected Members.

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**Recommendation:** That Council notes the content of this report.

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**1. Executive Summary**

- 1.1 This report provides details of the results of the Elections to North Ayrshire Council held on Thursday 5 May 2022 and on the signing of the Declaration of Acceptance of Office by all Elected Members.

**2. Background**

- 2.1 The Elections to the nine wards within the North Ayrshire Council area were held on Thursday 5 May 2022 with the electronic verification and counting of votes (eCount) taking place on Friday 6 May 2022 at The Portal, High Street, Irvine.
- 2.2 The overall turnout was 44% of the electorate. The total number of ballots received was 48,121. Of these, 47,003 (43%) were considered valid and 1,118 (1%) were rejected.

**3. Proposals**

- 3.1 As Returning Officer, I wish to report that the following Members were elected to serve on North Ayrshire Council from Friday 6 May 2022:-

<b>WARD 01: NORTH COAST</b>	
No. of Members Elected:	5
Ward Turnout:	53.9 %
Rejected Ballots	160
<b>Name of Members Elected for Ward 01 North Coast:</b>	
<b>Eleanor Collier, Scottish National Party (SNP)</b>	
<b>Todd Ferguson, Scottish Conservative and Unionist</b>	
<b>Alan Hill, Scottish National Party (SNP)</b>	
<b>Tom Marshall, Scottish Conservative and Unionist</b>	
<b>Ian Murdoch, Independent</b>	

<b>WARD 02: GARNOCK VALLEY</b>	
No. of Members Elected:	5
Ward Turnout:	44.1 %
Rejected Ballots	167
<b>Name of Members Elected for Ward 02 Garnock Valley:</b>	
<b>John Bell, Scottish Labour Party</b>	
<b>Anthea Dickson, Scottish National Party (SNP)</b>	
<b>Margaret Johnson, Scottish National Party (SNP)</b>	
<b>Donald L Reid, Independent</b>	
<b>Ronnie Stalker, Scottish Conservative and Unionist</b>	

<b>WARD 03: ARDROSSAN</b>	
No. of Members Elected:	3
Ward Turnout:	42.8 %
Rejected Ballots	70
<b>Name and address of Members Elected for Ward 03 Ardrossan:</b>	
<b>Stewart Ferguson, Scottish Conservative and Unionist</b>	
<b>Tony Gurney, Scottish National Party (SNP)</b>	
<b>Amanda Kerr, Scottish Labour Party</b>	

<b>WARD 04: ARRAN</b>	
No. of Members Elected:	1
Ward Turnout:	60.3 %
Rejected Ballots	23
<b>Name of Member Elected for Ward 04 Arran:</b>	
<b>Timothy Billings, Scottish Conservative and Unionist</b>	

<b>WARD 05: SALTCOATS AND STEVENSTON</b>	
No. of Members Elected:	5
Ward Turnout:	39.6 %
Rejected Ballots	202
<b>Name of Members Elected for Ward 05 Saltcoats and Stevenston:</b>	
<b>Cameron Inglis, Scottish Conservative and Unionist</b>	
<b>Jean McClung, Scottish National Party (SNP)</b>	
<b>Davina McTiernan, Scottish National Party (SNP)</b>	
<b>Jim Montgomerie, Scottish Labour Party</b>	
<b>John Sweeney, Scottish Labour Party</b>	

<b>WARD 06: KILWINNING</b>	
No. of Members Elected:	4
Ward Turnout:	42.2 %
Rejected Ballots	171
<b>Name of Members Elected for Ward 06 Kilwinning:</b>	
<b>Joe Cullinane, Labour and Co-operative Party</b>	
<b>Scott Davidson, Scottish National Party (SNP)</b>	
<b>John Glover, Scottish Conservative and Unionist</b>	
<b>Donald Reid, Labour and Co-operative Party</b>	

<b>WARD 07: IRVINE WEST</b>	
No. of Members Elected:	4
Ward Turnout:	39.8 %
Rejected Ballots	142
<b>Name of Members Elected for Ward 07 Irvine West:</b>	
<b>Scott Gallacher, Scottish Conservative and Unionist</b>	
<b>Shaun Macaulay, Scottish National Party (SNP)</b>	
<b>Louise McPhater, Scottish Labour Party</b>	
<b>Chloe Robertson, Scottish National Party (SNP)</b>	

<b>WARD 08: IRVINE EAST</b>	
No. of Members Elected:	3
Ward Turnout:	40.3 %
Rejected Ballots	87
<b>Name of Members Elected for Ward 08 Irvine East:</b>	
<b>Marie Burns, Scottish National Party (SNP)</b>	
<b>Nairn McDonald, Labour and Co-operative Party</b>	
<b>Angela Stephen, Scottish Conservative and Unionist</b>	

<b>WARD 09: IRVINE SOUTH</b>	
No. of Members Elected:	3
Ward Turnout:	38.4 %
Rejected Ballots	96
<b>Name of Members Elected for Ward 09 Irvine South:</b>	
<b>Robert Foster, Scottish Labour Party</b>	
<b>Christina Larsen, Scottish National Party (SNP)</b>	
<b>Matthew McLean, Scottish Conservative and Unionist</b>	

3.2 I wish to further report that the Acceptance of Declaration of Office has been duly signed by all 33 Elected Members mentioned above in the presence of a Council Solicitor, and in accordance with the relevant provisions of the Local Government (Scotland) Act, 1973.

3.3 The composition of North Ayrshire Council is therefore:-

- Scottish National Party (SNP) – 12 Elected Members
- Scottish Conservative and Unionist – 10 Elected Members
- Scottish Labour Party – 9 Elected Members (*Note: three of these Elected Members use the description Labour and Co-operative Party*)
- Independent – 2 Elected Members

#### **4. Implications/Socio-economic Duty**

##### **Financial**

4.1 None arising from the recommendations of this report.

##### **Human Resources**

4.2 None arising from the recommendations of this report.

##### **Legal**

4.3 None arising from the recommendations of this report.

##### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

##### **Climate Change and Carbon**

4.5 None arising from the recommendations of this report.

##### **Key Priorities**

4.6 None arising from the recommendations of this report.

##### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

#### **5. Consultation**

5.1 The Council's Monitoring Officer was consulted in the preparation of this report.

**Craig Hatton  
Chief Executive &  
Returning Officer**

For further information please contact **Barry Tudhope, Senior Manager (Corporate Policy, Performance and Elections)**, on **01294 324113**

#### **Background Papers**

None

## NORTH AYRSHIRE COUNCIL

18 May 2022

### North Ayrshire Council

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**Title:** Scheme of Administration

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**Purpose:** To approve the Council's Scheme of Administration, one of the key governance documents regulating the operation of the Council, its Committees and Officers.

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**Recommendation:** That the Council agrees to approve, with immediate effect, the Scheme of Administration, attached at Appendix 1.

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#### 1. Executive Summary

- 1.1 This report seeks approval by Council of the Scheme of Administration for, one of the key governance documents regulating the operation of the Council, its Committees and Officers.

#### 2. Background

- 2.1 Audit Scotland in their report "Roles and working Relationships – Are you Getting it Right?" stressed the importance of having governance arrangements that are fit for purpose and up-to-date. They note that such documents are critical in clarifying roles, responsibilities and expected behaviour and should be reviewed regularly. Good governance arrangements lead to sound decision-making. While the key governance documents were all fully reviewed in the lifetime of the previous Council, the opportunity has been taken to bring them up to date.

#### Scheme of Administration

- 2.2 One of the key rules of constitutional law is that Council, its committees and Officers can only act within the powers given to them. This is known as the 'ultra vires' (outwith powers) doctrine.
- 2.3 As powers are given directly to the Council, in turn it needs to decide which powers it will exercise through its committees, and which powers it will delegate to Officers. Powers can also be delegated to joint committees or joint boards comprising a number of different local authorities, but cannot be delegated to individual Members.

2.4 The Scheme of Administration sets out the functions reserved to Council, the powers delegated to its committees, and the remit and constitution of those committees. As previously, the Scheme of Administration provides that any functions which are not otherwise listed, will be dealt with by Cabinet. The proposed membership of each committee, both in terms of overall numbers and the numbers to be appointed by the Administration, Main Opposition, Second Opposition and Independent Members, is listed under each individual committee. The appointment of individual Members to committees and the appointment of Chairs and, where relevant, Vice Chairs, is dealt with in a separate report later in the Agenda.

2.5 The main suggested revisions which have been made to the previous Scheme of Administration are:

- Clarification on the status of working groups and advisory panels.
- Reference to the Joint Consultative Committee has been included.
- The authority for Cabinet to make recommendations to Council on council tax and rent setting has been deleted. In practice, there has been wide Member engagement with all groups and Independent Members as part of the budget setting process and on that basis it is considered that this remit is no longer required;
- Additional clarification on governance procedures relating to the purchase and disposal of land;
- Amendment to the composition of Committees as follows:
  - Increasing the membership complement of the Audit & Scrutiny Committee from seven to nine Members with the balance of membership being two Members nominated by the Administration (excluding Members of Cabinet), three Members nominated by the main Opposition, three Members nominated by the second Opposition and one Member nominated by Independent Members;
  - Increasing the membership complement of the Police Fire and Rescue Committee from seven to ten Members with the balance of membership being three Members nominated by the Administration, three Members nominated by the main Opposition, three Members nominated by the second Opposition and one Member nominated by Independent Members;
  - The balance of membership on the Planning Committee, Local Review Body and Licensing Committee (and in consequence, the Licensing Board) will be three Members nominated by the Administration, three Members nominated by the main Opposition, three Members nominated by the second Opposition and one Member nominated by Independent Members;
- The membership of the Staffing and Recruitment Committee will comprise the Leader and Depute Leader of the Council, the Leader and Depute Leader of the Main Opposition and the Leader and Depute Leader of the Second Opposition;
- The membership of the Appeals Committee will be formed from a pool of 12 Members being the Members of the Staffing and Recruitment Committee and their named substitutes;
- Some general rewording and formatting of the document.

### **3. Proposals**

3.1 Council is invited to approve, with immediate effect, the Scheme of Administration attached at Appendix 1.

## **4. Implications/Socio-economic Duty**

### **Financial**

4.1 Approval of the key governance documents is an essential component of the Council's financial governance arrangements.

### **Human Resources**

4.2 None arising from the recommendations of this report.

### **Legal**

4.3 Approval of the key governance documents is an essential component of the Council's legal and administrative arrangements.

### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

### **Climate Change and Carbon**

4.5 None arising from the recommendations of this report.

### **Key Priorities**

4.6 Clear, transparent governance arrangements promote good decision making. In turn, this supports the achievement of the Council's key priorities.

### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

## **5. Consultation**

5.1 There has been consultation with political Groups and Independent Members on the key governance documents. Executive Directors and relevant Officers have also been consulted as required.

Craig Hatton  
Chief Executive

For further information please contact **Aileen Craig, Head of Democratic Services**, on **01294 324125**.

### **Background Papers**

None



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

## Scheme of Administration

Published by Committee Services  
North Ayrshire Council  
Cunninghame House, Irvine KA12 8EE

Classification: Public

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## SECTION 1: GENERAL

### Purpose

The Scheme regulates: -

- The constitution and membership of the Committees of the Council;
- The functions of the Committees of the Council; and
- The delegation to Committees to exercise the functions of the Council.

### Amendment

This Scheme may be amended at any time by a decision of Council by a simple majority.

### Interpretation

In this Scheme the following expressions will have the following meaning assigned to them:

“Act” in relation to the functions of the Council means an Act of Parliament or any amendment, replacement or variation thereof including Regulations made thereunder.

“Area” in relation to the geographical area of jurisdiction of the Council will be North Ayrshire as defined in column one of Part 1 of Schedule 1 to the Local Government Etc. (Scotland) Act 1994.

“Committee” where the context permits includes any Sub-Committee of that Committee or Joint Committee.

“Co-opted Member” means any Member of a Committee who is not an Elected Member. “Council” means the North Ayrshire Council.

“Chief Executive” means the Chief Executive appointed by the Council. “Chief Officer” means any Chief Officer appointed by the Council.

“Executive Director” means any Executive Director appointed by the Council.

“Member” means a Councillor of the Council elected in terms of the Local Government Etc. (Scotland) Act 1994.

“Provost” means the Civic Head of the Council appointed by the Council.

“Leader” means the Leader for the time being of the Council.

“Depute Leader” means the Depute Leader for the time being of the Council.

“Main Opposition” means the largest Political or other Group not forming part of the Council Administration.

“Second Opposition” means the second largest Political or other Group not forming part of the Council Administration

**Conflict with Standing Orders** - in the event of any dispute or differences as to the interpretation of this Scheme of Administration and the Standing Orders for Meetings, the Standing Orders for Meetings will prevail.

## Committees

Subject to the provisions of the Local Government Etc. (Scotland) Act 1994 and other relevant statutes, the Council will appoint and maintain the following Committees and Sub Committees, namely:

- The Cabinet
- Appeals Committee
- Audit and Scrutiny Committee
- Ayrshire Regional Economic Joint Committee and the Ayrshire Regional Economic Partnership Sub-Committee
- Ayrshire Shared Services Joint Committee
- Education Appeals Committee
- Licensing Committee
- Local Development Plan Committee
- Local Review Body
- Planning Committee
- Police and Fire and Rescue Committee
- Staffing & Recruitment Committee

Functions are also delegated to the North Ayrshire Integration Joint Board, which is a statutory body constituted in terms of The Public Bodies (Scotland) (Integration Joint Board Establishment) (Scotland) Order 2015. The North Ayrshire Integration Joint Board also has a sub-committee, being the North Ayrshire Integration Joint Board Performance and Audit Committee.

The respective Committees of the Council will have the constitution, quorum, terms of reference and delegated powers hereinafter specified under the appropriate section of the Scheme.

The remit, membership and operation of the Local Negotiating Committee for Teachers will be as previously determined by Council and as stated within its Constitution until Council determines otherwise.

The remit, membership and operation of the Joint Consultative Committee for Local Government Employees and Craft Operatives (JCC) will be as previously determined by Council and as stated within its Constitution until Council determines otherwise.

The Council may from time to time appoint such other Committees, Sub Committees etc with such constitution, quorum, terms of reference and delegated powers as the Council may decide.

The Council and its Committees may establish any working group or advisory panel as may be required from time to time with terms of reference and time span as may be determined by Council or the parent Committee. A Working Group or Advisory Panel so constituted is not a committee or sub-committee of the Council and will not have delegated powers to implement findings or recommendations. The remit of a Working Group or Advisory Panel will be to report on its recommendations to Council or its parent committee.

North Ayrshire Community Planning Partnership has divided North Ayrshire into six localities for the purposes of Section 9 of the Community Empowerment (Scotland) Act 2015, being Irvine, Kilwinning, Three Towns, Arran, Garnock Valley, and North Coast. Locality Partnerships with membership from Community Planning Partners and communities have been established for each of these localities.

## SECTION 2: PROVISIONS APPLICABLE TO ALL COMMITTEES

1. Notwithstanding the reference to one Committee of any class of function, the Council will have power to refer any function on any particular occasion specifically to another Committee whether by reason of the nature of the matter or otherwise.

### Delegated Functions

2. Except otherwise specified herein, subject to the provisions of the Local Government (Scotland) Act 1973, any other relevant statute and the Council's Standing Orders Relating to Meetings and Proceedings of the Council and Committees, where any function of the Council is delegated to a Committee, the Committee will have the power to exercise the function in like manner as the Council could have exercised it had there been no delegation; provided however that it will be competent for such Committee in relation to any delegated matter, instead of taking a decision thereon to make a recommendation thereon to the Cabinet, in which event, the matter will be decided by the Cabinet after consideration of that recommendation.
3. There will be excluded from delegation to any Committee following:
  - (a) All functions and remits which are in terms of statute or other legal requirement bound to be undertaken by the Council itself;
  - (b) The raising of money by rates or council tax;
  - (c) The approval annually of the General Services Revenue Budget and the setting of the level of the council tax for any year;
  - (d) The approval of the General Services Capital Plan;
  - (e) The approval annually of the Housing Revenue and Housing Capital Budgets and the setting of the level of rents for council houses held in the Housing Revenue Account;
  - (f) The incurring of any net new expenditure not provided for in the estimate of capital or revenue expenditure;
  - (g) Approval of the unaudited Annual Accounts of the Council;
  - (h) Approval of the Council Plan;
  - (i) Any change to the Scheme of Administration regulating the constitution, membership, functions and powers of Committees of the Council;
  - (j) Any change to the Standing Orders Relating to Meetings and Proceedings of the Council and Committees, the Standing Orders for Contracts;
  - (k) Any change to the Scheme of Delegation to Officers, detailing those functions delegated by the Council to its Officers;
  - (l) The making of an order for the compulsory acquisition of any land or buildings;

- (m) Other than to a Committee specifically appointed for the purpose, the appointment or dismissal of the Chief Executive, the Returning Officer or any Executive Director, Monitoring Officer, Chief Social Work Officer, Chief Education Officer, Chief Planning Officer or S95 Financial Officer;
- (n) All matters relating to election of Councillors;
- (o) Matters relating to any alteration to the boundaries or the area of electoral wards and the number of Councillors;
- (p) The appointment of representatives of the Council on outside bodies;
- (q) The decision to co-operate or combine with other Local Authorities in the provision of services other than by way of collaborative agreement;
- (r) The approval or amendment of the Scheme of Establishment for Community Councils;
- (s) Consideration of Provisional Orders or Private Bills affecting the interests of the Council;
- (t) The approval of reasons for the non-attendance of Members at meetings in accordance with Section 35 of the Local Government (Scotland) Act 1973;
- (u) The appointment, nomination and removal of Members and the nomination and removal of Chairs and Vice-Chairs of any Committee unless expressly provided in this Scheme. All subject to where any appointed or nominated Member is a Member of a Group within the Council, then where such member is on Family Leave or resigns from a Committee or the Integration Joint Board, any replacement may be nominated by the Group notifying the Chief Executive. At least ten Clear Working Days' notice is required before the change is implemented;
- (v) The appointment, nomination and removal of Chairs and Vice-Chairs of any Committee unless expressly provided in this Scheme;
- (w) The appointment and setting of salary levels of Senior Councillors in terms of the Local Governance (Scotland Act 2004 (Remuneration) Regulations 2007 as amended;
- (x) Matters relating to the freedom of North Ayrshire;
- (y) Any functions referred to or delegated to any other Committee;
- (z) Any alteration or replacement of the North Ayrshire Integration Scheme;
- (aa) The approval of Policy and Strategy relating to the investment of any funds including Trust, Common Good and Pension Funds under the control or direction of the Council.
- (ab) The approval of the annual Treasury and Investment Strategy relating to the borrowing of money by the Council and treasury management.

## General

4. The proceedings of any Committee will not be invalidated through any vacancy in membership or any defect in appointment.
5. The Committees and any Sub-Committees of the Council will have the terms of reference specified in this scheme in relation to each such Committee or Sub-Committee and such Committees and Sub-Committees will conduct their business within their terms of reference only and will act in accordance with the policies of the Council.
6. The Committees and Sub-Committees shall conduct their business always in accordance with the Standing Orders relating to meetings and proceedings of the Council as far as they are applicable. The Integration Joint Board will conduct its business in accordance with the Standing Orders relating to meetings of that Board. The Ayrshire Shared Service Joint Committee will conduct its business in accordance with the Standing Orders relating to meetings of that Committee.
7. The Committees and Sub-Committees will conduct their business always in accordance with the Contract Standing Orders and Financial Regulations of the Council.
8. The ordinary meetings of Committees (except the North Ayrshire Integration Joint Board and the Ayrshire Shared Service Joint Committee) will commence at such times as may be determined by the Council and will meet according to a timetable determined by the Council from time to time. Without prejudice to the foregoing, the Chair of a Committee or Sub-Committee will have power where the agenda calling the meeting has not been issued to rearrange the date, time and place of a Committee or Sub-Committee in cases of urgency, subject to obtaining the agreement of the Council Leader, and the Leader of the Opposition. The commencement, place and timetable of ordinary meetings of North Ayrshire Integration Joint Board, the North Ayrshire Integration Joint Board Performance and Audit Committee, the Ayrshire Regional Economic Joint Committee, the Ayrshire Regional Economic Partnership Sub-Committee and the Ayrshire Shared Service Joint Committee will be determined by those bodies.
9. In the event that an issue arises which falls within the remit of more than one Committee, the Chief Executive will determine which Committee shall deal with the issue.
10. There will be no temporary substitution of Members of Committees and Sub-Committees unless specific provision is made for the temporary substitution of Members of any particular Committee or Sub-Committee within this Scheme of Administration or in any Minute of Agreement, Constitution or similar document.

## SECTION 3: CABINET

### Constitution

The Cabinet will comprise seven Members of the Council including:

- (a) The Leader of the Council;
- (b) The Depute Leader of the Council (who will be the Vice-Chair of the Cabinet);
- (c) Five Members nominated by the Administration;

The Cabinet, when meeting to consider Education Authority business, will have the following additional Members: -

- (a) As voting Members, three persons interested in the promotion of religious education appointed in accordance with Section 124 of the Local Government (Scotland) Act 1973 as amended by Section 31 of the Local Government Etc. (Scotland) Act 1994, and as detailed in Annexation A hereto; and
- (b) As non-voting Members, (a) a representative of the professional teaching associations nominated by the Local Negotiating Committee for Teachers, and  
(b) two pupil representatives being members of the Youth Council.

### Chair

The Leader of the Council will be the Chair of the Cabinet.

### Quorum

Three Members of the Cabinet will constitute a quorum.

### Delegated Powers

The Cabinet will have full delegated powers to implement its functions.

### Functions Referred

The following functions of the Council will stand referred to the Cabinet:

### General

All functions not specifically reserved to Council or delegated to any other Committee, Sub-Committee or officer, including the following: -

A. Policies and Objectives - Except insofar as relating to Health and Social Care functions delegated to the Integration Joint Board: -

1. Guiding the Council (a) in the formulation of its policy objectives and priorities and (b) to keep the policy objectives and priorities under review;
2. Consideration of the broad social, economic and environmental needs of the Council's area and matters of comprehensive importance thereto;
3. Advising the Council generally as to its financial and economic policies;

4. The preparation of all major strategic policy documents;
5. Consideration or alteration within the policy framework established by the Council of policy objectives in relation to all of the Council's functions;
6. Monitoring the performance of the Authority towards achieving its policy objectives and priorities in relation to all functions of the Council;
7. Development of the capacity of organisations, individuals and communities, including young people to become involved in, and contribute to North Ayrshire, its neighbourhoods and communities, in the context of Fair for All and the reduction of inequalities.
8. Development of community and locality planning and Locality Partnerships, including strategy relating to the development of defined locality priorities and community action plans; and the application of Community Investment and Participatory Budgeting.
9. Development of Community Wealth Building (CWB) including the Community Wealth Building Strategy and support for the work of the CWB Commission.

#### B. Resources and Services

10. Advising the Council generally on the allocation and control of its financial, workforce management, asset management and land resources;
11. The organisation and administration of all Directorates and Services of the Council;
12. Ensuring that the organisation and management processes of the Council are designed to make the most effective contribution in the achievement of the Council's objectives, reviewing where necessary and recommending to the Council any changes in the Committee structures or the distribution of functions and responsibilities;
13. Initiating and considering the results of reviews of strategic or corporate significance and any such other review as the Cabinet may deem appropriate;
14. Initiating or carrying out reviews of the Council's Risk Management Strategy;
15. Ensuring the Council has adequate and appropriate processes in place to ensure business continuity;
16. The preparation and implementation of the strategy for Performance Management and Review;
17. Reviewing the implementation of the Locality Outcome Improvement Plan, Council Plan, the Council Plan Delivery Plan, and the Council Plan Performance Framework;
18. Ensuring that all the Chief Officers establish and implement satisfactory arrangements for reviewing and appraising their Services' performances against set objectives, levels and standards of service and performance indicators and to receive regular reports on these and to review the outcomes;

### C. Financial Management

19. Within the context of the Capital Plan, advising and making recommendations to the Council on the approval of proposals for capital expenditure, the ranking of priorities and allocation of resources in relation to capital expenditure;
20. Within the context of the Revenue Plan, advising and making recommendations to the Council of proposals for revenue expenditure and ranking of priorities and allocation of resources in relation to revenue expenditure;
21. Policy and Strategy relating to the banking arrangements of the Council;
22. The preparation, review and amendment of regulations and arrangements for the proper administration of the Council's financial affairs;
23. Ensuring that Heads of Service maintain effective controls within financial procedures operated within their Services;
24. Performance reporting relating to the borrowing of money by the Council and treasury management;
25. Performance reporting relating to the investment of any funds including trust, common good and pension funds under the control or direction of the Council;
26. Policy and strategy relating to the Council's portfolio of insurance policies;
27. Policy and strategy relating to the collection of council tax, non-domestic rates, community charges, water and sewerage charges (on behalf of Scottish Water) and acting as Collecting Authority therefor in terms of Section 79 of the Local Government etc. (Scotland) Act 1994;
28. The exercise of any discretionary powers under the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 to set the amount of any discount or levy on long term empty property;
29. Policy and strategy relating to the initiation of actions and procedures for the recovery of council tax, non-domestic rates, and any other charges for which the Council has authority to charge or recover;
30. Policy and strategy relating to the Scottish Welfare Fund, Housing Benefit and Universal Credit;

#### D. Property, Accommodation and Staffing

31. Policy and strategy relating to the administrative buildings of the Council and providing, furnishing, equipping and maintaining the necessary offices and buildings for this purpose;
32. The management and use of lands and buildings controlled by the Council, including Common Good and the use or disposal of land and buildings declared surplus to the requirements of the Council including Common Good and HRA land, subject always to the principle of Best Value, the terms of The Disposal of Land by Local Authorities (Scotland) Regulations 2010 and any other relevant enactment.
33. Except where reserved to Council as part of approval of the Capital Plan, the approval of acquisitions of land and buildings subject to the principle of Best Value and any relevant legislative provisions which may be in place from time to time;
34. Policy and strategy relating to energy management in all properties owned or used by the Council;
35. The assessment and determination of housing needs;
36. The approval, amendment or replacement of a local housing strategy and Strategic Housing Investment Plan (SHIP);
37. Policy and strategy relating to the training, development and welfare of all staff including the preparation and review of Council policies on staffing issues and Health & Safety at Work, pay modernisation and the promotion of good human resource and employment practices;
38. Without prejudice to the functions of the Joint Consultation Committee and the Local Negotiating Committee for Teachers, all matters relating to the conditions of service, remuneration, allowances, attendance, superannuation and pensions of all employees including consultation and negotiation with appropriate Trade Unions as necessary and the ratification of national agreements and significant local agreements;
39. Oversight of use of powers under the Regulation of Investigatory Powers (Scotland) Act;
40. The development and monitoring of policies relating to equalities;

#### E. Digital

41. Approval of the Council's Digital and Information Strategies;
42. Policy and strategy relating to the Information Technology and cyber security requirements of the Council;

#### F. Education

43. Consideration or alteration within the policy framework established by the Council of policy objectives and priorities in relation to Education;
44. Exercising the functions of the Council as Education Authority under the Education (Scotland) Acts and any other relevant statutes. In particular and without prejudice to the above principal terms of reference:

- (a) All policy and strategy relating to education including pre-school education, primary education, secondary education, outdoor and sports education, lifelong education and community learning;
- (b) All policy and strategy relating to Parent Councils;

#### G. Miscellaneous

- 45. Any participation by the Council in matters relating to careers advice and placement in employment including the Council's interest in and relationship with Careers Scotland;
- 46. All matters relating to the Council's involvement in the provision of national and local youth and adult training schemes;
- 47. Policy and strategy with regard to social, educational, cultural, recreational and community-based activities;
- 48. Determination of community asset transfer requests under either the Council's Community Asset Transfer Scheme or the Community Empowerment (Scotland) Act 2015;
- 49. All matters relating to the administration of bursaries;
- 50. Approval of the Council's Communications Strategy;
- 51. All matters relating to Best Value and the quality of service delivery in respect of all services of the Council in terms of the Local Government in Scotland Act 2003;
- 52. The arrangement of civic hospitality and other receptions;
- 53. The level of annual funding to be provided to Community Councils;
- 54. Determining applications for financial assistance from outside bodies, unless delegated to another Committee;
- 55. Consideration of new legislation or consultation papers, except where the subject matter is within the remit of another Committee or delegated to Officers;
- 56. Policy and strategy relating to Civil Contingencies and Business Continuity;
- 57. Policy and strategy relating to Community and Locality Planning, including approval of the Locality Outcomes Improvement Plan and Locality Plans;
- 58. Policy and strategy relating to mental health functions excluded from delegation to the North Ayrshire Integration Joint Board.
- 59. Decisions in relation to Business Improvement Districts proposed under the Planning etc. (Scotland) Act, including exercise of the Council's veto of bid proposals, and to instruct the holding of a ballot.
- 60. Exercise of the functions of the Council as harbour authority and Duty Holder under the Harbours Act 1964, the Port Marine Safety Code, the Millport Piers Order and the Saltcoats Harbour Act in relation to piers, harbours and navigable rivers.

## **Annexation A**

Regulations for nominations of persons interested in the promotion of religious education to be appointed to the Cabinet.

1. The Cabinet will appoint three persons interested in the promotion of religious education to be members of the Cabinet in accordance with Section 124 of the Local Government (Scotland) Act 1973 as amended by Section 31 of the Local Government Etc. (Scotland) Act 1994.
2. The appointment will be made by the Cabinet as soon as possible after the ordinary statutory election of Councillors in the month of May and these persons will be appointed and hold office until the day of the next ordinary election of Councillors.

## **SECTION 4: APPEALS COMMITTEE**

### **Constitution**

The Appeals Committee will comprise a pool of 12 Members namely those Members of the Staffing and Recruitment Committee and their named substitutes. Out of this pool, three Members will determine each individual appeal. Committee Services will select the three Members on an equitable basis, having regard to availability.

The Chair of the Committee will be appointed by the Committee at each individual meeting, for the duration of that committee meeting.

### **Quorum**

Three members of the Committee will constitute a quorum.

### **Delegated Powers**

The Appeals Committee has full delegated powers to implement its functions, remit and responsibility as detailed above, save that it does not have the power to reverse any decision taken by Council or any other Committee of the Council or to make or amend any policy.

### **Meetings:**

The Appeals Committee will meet as and when business requires.

### **Functions Referred**

1. To determine appeals by employees against dismissal, whether resulting from disciplinary action or incapability, in accordance with the Council's Personnel Policies and Procedures.
2. To determine the outcome of grievance appeals by employees following exhaustion of the grievance stages, up to and including Executive Director, Heads of Service and the Chief Executive.
- 3.

To determine appeals by internal candidates in relation to the recruitment and selection procedure. This will be treated as the final stage in the appeal process at Stage 3 of the grievance procedure.

## SECTION 5: AUDIT AND SCRUTINY COMMITTEE

### Constitution

Nine Members of the Council excluding any Members of the Cabinet and comprising two Members nominated by the Administration, three Members nominated by the main Opposition, three Members nominated by the second Opposition and one independent Member.

### Chair

The Chair of the Committee will not be a Member of the Administration and will be approved by the Council. The Chair and the Vice-Chair will be appointed by the Council.

### Quorum

Three Members of the Committee will constitute a quorum.

### Delegated Powers

The Audit and Scrutiny Committee has delegated powers to a) approve the audited accounts of the Council and; b) to determine a request under the Asset Transfer Request (Review Procedures) (Scotland) Regulations 2016, to review a decision to either refuse an asset transfer request or grant it subject to conditions. Otherwise it does not have delegated powers, and except for matters reserved to Council. all recommendations of the Committee will be considered by Cabinet.

### Functions Referred

The following functions of the Council will stand referred to the Committee:

#### Performance Functions

1. The preparation and implementation of the strategy for Performance Review.
2. Assurance that Chief Officers establish and implement satisfactory arrangements for setting priorities, SMART actions to deliver these, supported by performance indicators and to receive regular reports on these and then to review the outcomes.

#### Audit Functions

1. Assurance that the Council has proper arrangements to deliver Best Value and value for money, including consideration of quality reviews under EFQM, PSIF etc.
2. Assurance that the Council has appropriate corporate governance arrangements in place.
3. Assurance on the integrity of the financial reporting process.
4. In relation to Internal Audit functions, to oversee its independence, objectivity, performance and professionalism, to support the effectiveness of the internal audit process and promote the effective use of internal audit within the assurance framework.
5. To consider reports from External Audit and inspection agencies and their implications for governance, risk management or control.
6. Support effective relationships between external audit and internal audit, inspection agencies and other relevant bodies.

7. Review the financial statements, external auditor's opinion and reports, and monitor management actions in response to issues raised by external audit.
8. Ensuring that Heads of Service maintain effective controls within financial procedures operated within their Services.
9. To monitor the effectiveness of the control environment, including arrangements for managing the Council's exposure to Corporate Fraud, Counter Fraud and Corruption are robust, including review of individual case reports.
10. Consider the effectiveness of Risk Management arrangements and the control environment.
11. Approval of the audited accounts of the Council

#### Scrutiny Functions

1. Monitoring the performance of the Authority towards achieving its policy objectives and priorities in relation to all functions of the Council.
2. Reviewing the effectiveness of all the Council's policies, work and the standard and levels of services provided and questioning Members of the Cabinet thereon.
3. Reviewing the implementation of the Locality Outcome Improvement Plan, Council Plan, the Council Plan Delivery Plan, the Council Plan Performance Framework and Service Budgets.
4. Monitoring the functions of external bodies funded by the Council (Following the Public Pound).
5. Monitoring and reviewing the Council's complaints procedures.
6. As a result of call-in requests, scrutinise decisions of Cabinet, in terms of the procedures set out in the Standing Orders for Meetings.
7. To be responsible for setting its own work programme which will include the right to undertake reviews following input from inter alia the Cabinet, the Council, members of the Audit and Scrutiny Committee itself and Community Planning Partners.
8. The Committee may at its discretion set up short term working groups for review work. Membership of the working group will be open to anyone with the exception of Cabinet Members, whom the Committee considers will assist in the task assigned. The working groups will not be decision making bodies or formal committees but will make recommendations to the Audit and Scrutiny Committee.
9. Promoting the highest standards of conduct by Elected Members including appropriate training.

10. Assisting Elected Members in observing the relevant Codes of Conduct.
11. Monitoring and keeping under review the Codes of Conduct maintained by the Council.
12. Reviewing the personal development and training of Councillors.
13. Receiving all petitions and deputations submitted to the Council except those relating to the Council's planning functions, which shall be considered by the Planning Committee. The arrangements for receiving petitions are as set out in Appendix B to the Standing Orders relating to Meetings and Proceedings of the Council and Committees.
14. Determination of a request under the Asset Transfer Request (Review Procedures) (Scotland) Regulations 2016, to review a decision to either refuse an asset transfer request or grant it subject to conditions.

## **SECTION 6: AYRSHIRE REGIONAL ECONOMIC JOINT COMMITTEE**

### **Constitution**

A maximum of thirteen Members, comprising up to three members each nominated by East, North and South Ayrshire Councils, one from Scottish Enterprise, one from Skills Development Scotland, one from the business sector and one from the education sector. Named substitutes are permitted to attend in place of any nominated Member.

### **Chair**

The Chair of the Committee will rotate annually from a Member appointed by East Ayrshire Council to North Ayrshire Council, and to South Ayrshire Council and so on, with each Chair taking up his or her position on 1 September.

### **Quorum**

A quorum of the Joint Committee shall be four members, with at least one member from each Council present.

### **Standing Orders and Meetings**

The Standing Orders for the Joint Committee shall be as determined by East, North and South Ayrshire Councils. The Committee shall determine its timetable of meetings but shall meet at least two times per annum.

### **Functions Referred**

The following functions of the Council will stand referred to the Joint Committee: -

Acting in the interests of Ayrshire as a whole: -

1. To approve the Ayrshire Economic Strategy.
2. To make recommendations to the UK and Scottish Governments, the Ayrshire Councils, public sector partners and business to promote collaborative working and to ensure their priorities, policies and service delivery are aligned with the Ayrshire Economic Strategy and the Ayrshire Growth Deal.
3. To approve the business cases of individual Ayrshire Growth Deal Projects.
4. To receive reports on the effectiveness of the implementation of the Ayrshire Economic Strategy and the Ayrshire Growth Deal and to identify potential improvements and make recommendations to the Constituent Authorities.
5. To make recommendations to the Constituent Authorities in respect of the Ayrshire Growth Deal funding arrangements.
6. To make recommendations to the Constituent Authorities on the setting of budgets for the Ayrshire Growth Deal

7. To approve operational expenditure within agreed with Ayrshire Growth Deal Joint Committee budgets allocated by the Constituent Authorities in order to further the aims of the Ayrshire Growth Deal.

### **Delegated Powers**

The Joint Committee has delegated powers to implement its functions, except as otherwise provided herein. The Joint Committee shall have power to create an Ayrshire Regional Economic Partnership Sub-Committee whose membership, powers and remit shall be as follows: -

### **Ayrshire Regional Economic Partnership Sub-Committee**

#### **Constitution**

The Ayrshire Regional Economic Partnership ('the Partnership') is a sub-committee in terms of section 56(1) of the Local Government (Scotland) Act 1973. It shall comprise a maximum of 22 members in terms of its Standing Orders, being: -

- (a) three representatives (2 Councillors and one Officer) nominated by each of East, North and South Ayrshire Councils;
- (b) three representatives of the business sector selected by the Partnership;
- (c) three representatives of the Higher or further Education sector, selected by the Partnership;
- (d) one representative nominated by each of Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, and Visit Scotland.

The Partnership may also co-opt up to three additional members on the basis of experience or skills, whether from existing members, from other organisations or individuals. Named substitutes are permitted to attend in place of any nominated Member.

#### **Chair**

The Chair shall be appointed by the Joint Committee.

#### **Quorum**

A quorum of the Partnership shall be six, with at least one nominee from each of the Ayrshire Councils present.

#### **Standing Orders and Meetings**

The Standing Orders of the Partnership shall be as determined by East, North and South Ayrshire Councils. The Partnership shall determine its timetable of meetings but shall meet at least six times per annum.

#### **Delegated Powers**

The Partnership has delegated powers to implement its functions, except as otherwise provided herein.

## Functions Referred

The following functions of the Ayrshire Regional Economic Joint Committee will stand referred to the Partnership: -

The following functions of the Ayrshire Economic Joint Committee will stand referred to the Partnership: -

Acting in the interests of Ayrshire as a whole, to: -

1. To oversee the development of the Ayrshire Economic Strategy and to make recommendations to the Ayrshire Economic Joint Committee regarding its approval;
2. To provide strategic oversight for the delivery of the strategic priorities and actions contained with the Ayrshire Economic Strategy and any Action Plan forming part of such Strategy;
3. To drive forward the growth of the Ayrshire economy;
4. To prioritise inclusive growth and provide an annual report in line with the Scottish Government's Inclusive Growth Monitoring Framework;
5. To drive increased collaboration and partnership between the Ayrshire Councils, the Scottish & UK Governments and their agencies and the private sector, focussed towards delivery of the Ayrshire economic priorities;
6. To make recommendations to the Ayrshire Economic Joint Committee, the Ayrshire Councils, public sector partners and business to promote collaborative working and to ensure their priorities, policies and service delivery are aligned with the Ayrshire Economic Strategy and the Ayrshire Growth Deal;
7. Undertake periodic reviews of the Ayrshire Economic Strategy and any Action Plan forming part of the Strategy to ensure that it is consistent with the emerging ambitions of Ayrshire and collaboration with partners;
8. To oversee the development of the business cases of individual Ayrshire Growth Deal Projects and to make recommendations to the Ayrshire Economic Joint Committee regarding their approval;
9. To oversee the implementation of the Ayrshire Economic Strategy and the Ayrshire Growth Deal, to monitor the performance of the Programme Management Office (PMO), to identify potential improvements and make recommendations to the PMO or the Ayrshire Economic Joint Committee;
10. To make recommendations to the Ayrshire Economic Joint Committee in respect of the Ayrshire Growth Deal funding arrangements;
11. To ensure that an effective monitoring and evaluation framework is in place at both a project and programme level, and that each Member Authority is delivering upon its requirements;
12. To provide strategic direction and manage the input of any Thematic or other Working Groups.

## **SECTION 7: AYRSHIRE SHARED SERVICE JOINT COMMITTEE**

### **Constitution**

A maximum of twelve Members, comprising up to four members each nominated by East, North and South Ayrshire Councils

### **Chair**

The Chair of the Committee will rotate annually from a Member appointed by North Ayrshire Council to East Ayrshire Council, and to South Ayrshire Council and so on, with each Chair taking up his or her position on 1 September.

### **Quorum**

A quorum of the Joint Committee shall be four members where all three Councils elect to participate in a particular Shared Service arrangement, with at least one member representing each of the parties.

Where only two of the Councils elect to participate in a particular Shared Service arrangement the quorum of the Joint Committee shall be three members, with at least one member representing each of the parties.

### **Standing Orders and Meetings**

The Joint Committee shall adopt its own Standing Orders. The Committee shall determine its timetable of meetings.

### **Delegated Powers**

The Joint Committee has delegated powers to implement its functions, except as otherwise provided herein. The Joint Committee shall have power to create Sub-committees, and to determine the powers, membership and Chair of such Sub-Committee.

### **Functions Referred**

The following functions of the Council will stand referred to the Committee in relation to such Shared Services as shall be agreed by the parties from time to time and more specifically detailed in a Minute of Agreement: -

1. To monitor spend within the budget approved by the parties hereto in relation to each Shared Service.
2. To develop and implement a strategic policy framework for the operation of each Shared Service.
3. To receive, scrutinise and approve service plans for implementation of the policies and priorities for service delivery relative to Shared Services including establishing appropriate service targets and performance indicators.
4. To co-ordinate, guide, monitor and review the performance and discharge of Shared Services by officers of the relevant Lead Authority.

5. To consider and approve an annual Service Plan in respect of each Shared Service including the Budget submission. The Joint Committee does not have any delegated authority in relation to setting the budget of any Shared Service.

## **SECTION 8: EDUCATION APPEAL COMMITTEE**

### **Constitution**

The rules for the formal constitution and membership of Education Appeal Committees are laid down in Schedule 1A of the Education (Scotland) Act 1980 as amended.

The Committee will comprise of 3 members, comprising one Member of Council and two Lay Members, drawn from a pool of 4 Members of Council and approximately 9 Lay Members.

Lay Members are deemed to be persons who are not Members of the Council or the Cabinet and are either parents of children of school age or persons having experience in education or persons acquainted with the educational conditions in the area, but not including any person employed by the Authority in an administrative or advisory capacity as respects the discharge of their education functions.

### **Chair**

The Chair shall be nominated by the Committee at each meeting. The Chair of the Appeal Committee will not be a Member of the Cabinet.

### **Quorum**

Three Members of the Committee, comprising one Member of Council and two Lay Members shall constitute a quorum.

### **Delegated Powers**

The Education Appeal Committee has delegated powers to confirm or refuse to confirm the relevant decision of the Council acting as Education Authority. If refusing to confirm a decision, the Council must give effect to the Committee's decision.

### **Functions Referred**

The following functions stand referred to the Committee:

1. Appeals by parents against a decision of the Council acting as Education Authority as to the schools which their child or children should attend, in response to a placing request submitted by the parent.
2. Appeals by a parent against a decision of the Council acting as Education Authority to exclude their child or children.

## **SECTION 9: LICENSING COMMITTEE**

### **Constitution**

Ten Members of the Council comprising three Members nominated by the Administration, three Members nominated by the main Opposition, three Members nominated by the second Opposition and 1 independent Member.

### **Chair**

The Committee will have a Chair and a Vice-Chair. The Chair and the Vice-Chair will be appointed by the Council.

### **Quorum**

Three Members of the Committee will constitute a quorum.

### **Delegated Powers**

The Licensing Committee will have full delegated powers to implement its functions.

### **Functions Referred**

1. The power to exercise the Council's functions in connection with all licensing and analogous registration matters having effect within the area of the Council unless a licensing issue has been specifically referred to another Committee.
2. The power to make a resolution to licence any activity in terms of the Civic Government (Scotland) Act 1982, or to revoke or rescind any such resolution.
3. The power to make any Policy Statement or policy relating to licensed activities other than those remitted to the Licensing Board.
4. The power to discharge the Council's statutory functions in relation to Safety at Sports Grounds.
5. The power to carry out the Council's functions under the Civic Government (Scotland) Act 1982, Part V (Public Processions).
6. Registration of private landlords.
7. The power to review licences, take enforcement action and consider and determine all complaints and issues relating to licence holders or licensees.
8. The power to discharge the Council's statutory powers relating to Building Standards in terms of the Building Standards (Scotland) Act 2003 and other legislation.
9. The power to oversee the exercise of all the Council's functions under Parts 7 and 8 of the Antisocial Behaviour (Scotland) Act 2004, and to make such decisions in exercise of these powers as are not delegated to Officers.
10. Registration of Short-term Lettings

## **SECTION 10: LOCAL DEVELOPMENT PLAN COMMITTEE**

### **Constitution**

The Local Development Plan Committee will comprise all 33 Members of the Council.

### **Chair**

The relevant Portfolio Holder on the Cabinet shall be the Chair. A Vice-Chair shall be appointed by the Council.

### **Quorum**

Six Members of the Committee shall constitute a quorum

### **Functions referred**

The following functions of the Council will stand referred to the Committee: -

1. To undertake all processes required under Parts 2 of the Town and Country (Scotland) Act 1997 as amended or any legislation subsequently enacted for the preparation of the North Ayrshire Local Development Plan.
2. To receive representation from Elected Members, statutory consultees, local authorities and the general public on the content of the Local Development Plan.
3. To consider any representations received and to make any adjustment to the draft Local Development Plan.
4. To finalise the form and content of the Local Development Plan and to present it to the North Ayrshire Council for adoption.
5. To undertake all statutory processes relating to Core Path Planning and to finalise the form and content of the Core Path Plan and submit it to Cabinet for adoption.
6. To undertake all statutory processes relating to a Regional Spatial Strategy in terms of Section 4ZA-E of the Town and Country Planning (Scotland) Act 1997, and to finalise the form and content of the Regional Spatial Strategy and submit it to Cabinet for adoption.
7. To undertake all statutory processes relating to a Local Place Plan in terms of Section 15A of the Town and Country Planning (Scotland) Act 1997.
8. To undertake all statutory processes relating to an Open Space Strategy in terms of Section 3 G of the Town and Country Planning (Scotland) Act 1997, and to finalise the form and content of the Open Space Strategy and submit it to Cabinet for adoption.
9. To undertake all statutory processes relating to Master Plan Consent Areas in terms of Section 54A-F of the Town and Country Planning (Scotland) Act 1997, and to finalise the form and content of any Master Plan Consent Areas and submit it to Cabinet for adoption.
10. To undertake all statutory processes relating to a Forestry and Woodland Strategy in terms of Section A159 of the Town and Country Planning (Scotland) Act 1997, and to finalise the form and content of the Forestry and Woodland Strategy and submit it to Cabinet for adoption.

## **SECTION 11: LOCAL REVIEW BODY**

### **Constitution**

Ten Members of the Planning Committee.

### **Chair**

The Chair and Vice-Chair shall be appointed by the Council.

### **Quorum**

Three Members of the Local Review Body will constitute a quorum.

### **Delegated Powers**

The Local Review Body has fully delegated powers to implement its functions.

### **Functions Referred**

To conduct reviews in respect of appeals against refusal of planning permission, or unacceptable conditions or failure to determine an application within such period as is prescribed in terms of the Scheme of Delegation to Officers under Section 43(A) (i) of the Town & Country Planning (Scotland) Act 1997 and the Town & Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

### **Procedure to be followed by the Local Review Body**

1. Once a formal Notice of Request for Review is received all parties who have been involved in the application, including consultees and objectors are notified of the Review Request.
2. All parties are permitted a period of time to submit representations to the Local Review Body on the Review Request. No new information shall be permitted except under exceptional circumstances.
3. The Local Review Body will meet to determine whether any additional information is required. If none is considered necessary, they shall determine the review. Where additional information is required the following options may be considered:
  - (a) Call for further written submissions from the parties; and/or
  - (b) agree to convene a hearing allowing the parties to make oral representations; and/or
  - (c) agree to carry out a site visit which may be accompanied or unaccompanied. It will be possible to combine more than one of these processes.
4. All parties will be advised of the process to be followed and the timescale within which further information, if any, is to be submitted.

5. The Local Review Body will meet and determine the Review based on the procedure chosen at the earlier meeting. The Local Review Body will be supported by a Planning Officer, one who has not been involved in the application under review and, where considered necessary, a Legal Adviser. Committee Services will support the Local Review Body and produce Minutes of their meetings.
6. Once a decision has been taken by the Local Review Body all parties will be notified of the result. Only an appeal to the Court of Session on a point of law can follow thereafter.

## SECTION 12: PLANNING COMMITTEE

### Constitution

Ten Members of the Council comprising three Members nominated by the Administration, three Members nominated by the main Opposition, three Members nominated by the second Opposition and one independent Member.

### Chair

The Committee will have a Chair and a Vice-Chair. The Chair and the Vice-Chair will be appointed by the Council.

### Quorum

Three Members of the Committee will constitute a quorum.

### Delegated Powers

The Planning Committee has fully delegated powers to implement its functions.

### Functions Referred

The following functions of the Council will stand referred to the Committee:

All planning matters under the provisions of the Town and Country Planning (Scotland) Act 1997, the Countryside (Scotland) Act 1967, the Planning and Compensation Act 1991, the Local Government Etc. (Scotland) Act 1994, the Land Reform (Scotland) Act 2003, the Planning Etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019;

Notwithstanding the above the following powers are delegated to the Committee namely the power to:

1. Determine planning permission. For the avoidance of doubt this includes the determination of planning applications for major developments which are significantly contrary to the Local Development Plan; and the determination of applications for national developments as specified in the National Planning Framework;
2. Determine listed building and conservation area consent;
3. Approve amendments and other consents including material and non-material variations.
4. Approve advertisement consent.
5. Determine certificates of lawfulness.
6. Determine screening and scoping opinions.
7. Determine hazardous substances consents.
8. Determine prior notifications for agricultural development and demolition.
9. Determine applications by Statutory Undertakers; and Tree Preservation Orders or

other planning related orders where not otherwise delegated.

10. Instruct enforcement and interdict actions including direct action where appropriate.
11. Participate in the preparation of the North Ayrshire Local Development Plan.
12. Receive reports from the Ayrshire Joint Planning Service.
13. To prepare design or development planning briefs.
14. Respond to appropriate planning consultations.
15. Rights of Way, Access, Path Planning and Footpaths.
16. Notwithstanding the terms of paragraphs 1 and 2 above, determine any other regulatory planning matters.

## **SECTION 13: POLICE AND FIRE AND RESCUE COMMITTEE**

### **Constitution**

Ten Members of the Council comprising three Members nominated by the Administration, three Members nominated by the main Opposition, three Members nominated by the second Opposition and one independent Member. Membership shall, if possible, include a Member who represents each of the six Localities, namely Irvine, Kilwinning, Three Towns, Arran, Garnock Valley and North Coast.

### **Chair**

The Chair and the Vice-Chair will be appointed by the Council.

### **Quorum**

Three Elected Members of the Council shall constitute a quorum.

### **Delegated Powers**

The Police and Fire and Rescue Committee has full delegated powers to implement its functions except as otherwise provided for herein.

### **Functions Referred**

The following functions of the Council will stand referred to the Committee:

1. Discharge all duties of the Council in connection with the provision by the Police Service of Scotland of police services within North Ayrshire.
2. Discharge all duties of the Council in connection with the provision by the Scottish Fire and Rescue Service of fire and rescue services within North Ayrshire.
3. To consider and comment upon the proposed local operating arrangements for the Police Service of Scotland and the Scottish Fire and Rescue Service.
4. To consider and approve the draft Police and Fire and Rescue Plans for North Ayrshire.
5. To scrutinise the planning, delivery and outcomes of services delivered by the Police Service of Scotland and the Scottish Fire and Rescue Service in North Ayrshire.
6. To request and receive information and reports from the Local Commander (Police) and Local Senior Officer (Fire and Rescue) on any area or aspect of the services deemed appropriate.
7. To receive and comment on performance reports from the Local Commander (Police) and Local Senior Officer (Fire and Rescue), in order to monitor and assess the performance of Police and Fire and Rescue Services against local and national performance frameworks and to make recommendations for improvements.

8. To scrutinise the discharge of the Police Service of Scotland and the Scottish Fire and Rescue consultative and community engagement arrangements in North Ayrshire.
9. To consider reports from external agencies such as HMICS, external auditors and Audit Scotland in relation to the work carried out by the Police Service of Scotland and Scottish Fire and Rescue Service.
10. To consider and respond to consultations on strategic Police and Fire and Rescue priorities and Scottish Police Authority and Scottish Fire and Rescue Service Strategic Plans.

## **SECTION 14: STAFFING AND RECRUITMENT COMMITTEE**

### **Constitution**

Six members of the Council, namely the Leader and Depute Leader of the Council, , the Leader and Depute Leader of the main Opposition, the Leader and Depute Leader of the second Opposition shall constitute the membership of the Committee. The Cabinet Member holding the relevant service portfolio relating to that particular Chief Officer appointment shall also be a member of the Committee for business relating to that appointment only.

Each member will have a named substitute who may attend meetings in their place when necessary.

For appointments to Chief Officer posts of the North Ayrshire Health and Social Care Partnership, the Committee shall comprise the Leader, the Deputy Leader, the Leaders of the Opposition, the Council's Chief Executive, and the Chair, Vice Chair and another Director of NHS Ayrshire and Arran Health Board and the Chief Executive of NHS Ayrshire and Arran, or their nominee. (Note – the Chief Officer and Chief Finance Officer of the Integration Joint Board are appointed by the Integration Joint Board).

### **Chair**

The Leader of the Council will be the Chair.

### **Quorum**

Three Members of the Committee will constitute a quorum.

### **Delegated Powers**

The Staffing and Recruitment Committee will have delegated powers to implement its functions.

### **Meetings**

The Committee will meet as and when necessary in respect of its recruitment responsibilities.

### **Functions Referred**

The following functions stand referred to the Committee:

1. To consider arrangements for the selection of candidates for, and authorise the appointment of individuals to, the posts of Chief Officer of the Council (other than interim appointments).
2. To consider and approve any application from a Chief Officers for early release, voluntary early retirement or voluntary redundancy which does not otherwise comply with Council policy on early release.
3. The Chief Executive or nominee and Head of Service (People) will act as special advisers to the Committee when undertaking Chief Officer recruitment.

The Committee may also allow specialist or technical assessors to assist the Committee.

## **SECTION 15 - NORTH AYRSHIRE INTEGRATION JOINT BOARD**

### **Constitution**

North Ayrshire Integration Joint Board is a statutory body constituted in terms of The Public Bodies (Scotland) (Integration Joint Board Establishment) (Scotland) Order 2015. The Functions delegated by the Council to the Board, as well as its Membership, Chairperson, Quorum, and powers are more specifically set out in the North Ayrshire Integration Scheme, being an agreement between North Ayrshire Council and Ayrshire and Arran NHS Board approved by Scottish Ministers in March 2015. Voting membership comprises four persons nominated by the NHS Board, and four persons appointed by the Council, each of whom may have a Deputy. The Council nominations shall comprise two Members and two Deputies nominated by the Administration and two Members and two Deputies not nominated by the Administration.

### **Chair**

The Chair shall rotate every two years between a Chair nominated by the Council, and one nominated by the NHS Board. The Vice Chair is nominated from whichever of the Council or NHS nominees who is not then the Chair. The Council appointed Chair or Vice Chair shall be Cabinet Portfolio Holder for Health and Social Care.

### **Quorum**

The quorum is half of the voting members.

### **Delegated Powers**

North Ayrshire Integration Joint Board has fully delegated powers to implement its functions.

### **Functions Referred**

#### **In relation to the following functions**

1. Social work services for adults and older people.
2. Services and support for adults with physical disabilities, learning disabilities.
3. Mental health services.
4. Drug and alcohol services.
5. Adult protection and domestic abuse.
6. Carers support services.
7. Community care assessment teams.
8. Support services.
9. Care home services.
10. Adult placement services.
11. Health improvement services.
12. Aids and adaptations and gardening services.
13. Day services.
14. Local area co-ordination.
15. Respite provision.

16. Occupational therapy services.
17. Re-ablement services, equipment and telecare.
18. Criminal justice social work services.
19. Children and families social work services.

**The duties of the Council under the following legislation: -**

1. National Assistance Act 1948
  - (a) Section 45 (The recovery of expenditure incurred under Part III of that Act where a person has fraudulently or otherwise misrepresented or failed to disclose a material fact.)
  - (b) Section 48 (The protection of property of a person admitted to hospital or accommodation provided under Part III of that Act.)
2. Matrimonial proceedings (Children) Act 1958
  - (a) Section 11 (Reports as to arrangements for future care and upbringing of children.)
3. The Disabled Persons (Employment) Act 1958
  - (a) Section 3 (The making of arrangements for the provision of facilities for the purposes set out in section 15(1) of the Disabled Persons (Employment) Act 1944.)
4. The Social Work (Scotland) Act 1968
  - (a) Section 1 (The enforcement and execution of the provisions of the Social Work (Scotland) Act 1968.)
  - (b) Section 4 (The making of arrangements with voluntary organisations or other persons for assistance with the performance of certain functions.)
  - (c) Section 5 (Local authorities to perform their functions under the Act under the guidance of the Secretary of State.)
  - (d) Section 6B (Local authority inquiries into matters affecting children.)
  - (e) Section 8 (The conducting of or assisting with research in connection with functions in relation to social welfare and the provision of financial assistance in connection with such research.)
  - (f) Section 10 (The making of contributions by way of grant or loan to voluntary organisations whose sole or primary object is to promote social welfare and making available for use by a voluntary organisation premises, furniture, equipment, vehicles and the services of staff.)
  - (g) Section 12 (The promotion of social welfare and the provision of advice and assistance) except in so far as it is exercisable in relation to the provision of housing support services.
  - (h) Section 12A (The assessment of needs for community care services, the making of decisions as to the provision of such services and the provision of emergency community care services.)
  - (i) Section 12AZA (The taking of steps to identify persons who are able to assist a supported person with assessments under section 12A and to involve such persons in such assessments.)

- (j) Section 13(The assistance of persons in need with the disposal of their work.)
- (k) Section 13ZA (The taking of steps to help an incapable adult to benefit from community care services.)
- (l) Section 13A (The provision, or making arrangements for the provision, of residential accommodation with nursing.)
- (m) Section 13B (The making of arrangements for the care or aftercare of persons suffering from illness.)
- (n) Section 14 (The provision or arranging the provision of domiciliary services and laundry services.)
- (o) Section 27 (Supervision and care of persons put on probation or released from prisons etc.)
- (p) Section 27ZA (Grants in respect of community service facilities.)
- (q) Section 28 (The burial or cremation of deceased persons who were in the care of the local authority immediately before their death and the recovery of the costs of such burial or cremation) so far as it is exercisable in relation to persons cared for or assisted under another delegated function.
- (r) Section 29 (The making of payments to parents or relatives of, or persons connected with, persons in the care of the local authority or receiving assistance from the local authority, in connection with expenses incurred in visiting the person or attending the funeral of the person.)
- (s) Section 59 (The provision of residential and other establishments.)
- (t) Section 78A (Recovery of contributions.)
- (u) Section 80 (Enforcement of duty to make contributions.)
- (v) Section 81 (Provisions as to decrees for ailment.)
- (w) Section 83 (Variation of trusts.)
- (x) Section 86 (The recovery of expenditure incurred in the provisions of accommodation, services, facilities or payments for persons ordinarily resident in the area of another local authority from the other local authority.)

#### 5. The Children Act 1975

- (a) Section 34 (Access and maintenance.)
- (b) Section 39 (Reports by local authorities and probation officers.)
- (c) Section 40 (Notice of application to be given to local authority.)
- (d) Section 50 (Payments towards maintenance of children.)

#### 6. The Local Government and Planning (Scotland) Act 1982

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

7. Health and Social Services and Social Security Adjudications Act 1983

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

8. Foster Children (Scotland) Act 1984

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

9. Disabled Persons (Services, Consultation and Representation) Act 1986

- (a) Section 2 (The making of arrangements in relation to an authorised representative of a disabled person and the provision of information in respect of an authorised representative.)
- (b) Section 3 (The provision of an opportunity for a disabled person or an authorised representative of a disabled person to make representations as to the needs of that person on any occasion where it falls to a local authority to assess the needs of the disabled person for the provision of statutory services by the authority, the provision of a statement specifying the needs of the person and any services which the authority proposes to provide, and related duties.)
- (c) Section 7 (The making of arrangements for the assessments of the needs of a person who is discharged from hospital.)
- (d) Section 8 (Having regard, in deciding whether a disabled person's needs call for the provision of services, to the ability of a person providing unpaid care to the disabled person to continue to provide such care.)

10. The Children (Scotland) Act 1995
  - (a) Section 17 (Duty of local authority to children looked after by them.)
  - (b) Sections 19-27 (Provision of relevant services by local authority for or in respect of children in their area.)
  - (c) Sections 29-32 (Advice and assistance for young person's formerly looked after by local authorities; duty of local authority to review case of a looked after child; removal by local authority of a child from a residential establishment.)
  - (d) Section 36 (Welfare of certain children in hospitals and nursing homes etc.)
  - (e) Section 38 (Short term refuges for children at risk of harm.)
  - (f) Section 76 (Exclusion orders.)
11. Criminal Procedure (Scotland) Act 1995
  - (a) Section 51 (Remand and committal of children and young persons.)
  - (b) Section 203 (Where a person specified in section 27(1)(b)(i) to (vi) of the Social Work (Scotland) Act 1968 commits an offence the court shall not to dispose of the case without first obtaining a Report from the local authority in whose area the person resides.)
  - (c) Section 234B (Drug treatment and testing order.)
  - (d) Section 245A (Restriction of liberty Orders.)
12. The Adults with Incapacity (Scotland) Act 2000
  - (a) Section 10 (The general functions of a local authority under the Adults with Incapacity (Scotland) Act 2000.)
  - (b) Section 12 (The taking of steps in consequence of an investigation carried out under section 10(1)(c) or (d).)
  - (c) Sections 37, 39-45 (The management of the affairs, including the finances, of a resident of an establishment managed by a local authority.)
13. The Housing (Scotland) Act 2001
  - (a) Section 92(assistance for housing purposes) only in so far as it relates to an aid or adaptation.
14. The Community Care and Health (Scotland) Act 2002
  - (a) Section 4 (The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 in relation to the provision, or securing the provision, of relevant accommodation.)
  - (b) Section 5 (The making of arrangements for the provision of residential accommodation outside Scotland.)
  - (c) Section 6 (Entering into deferred payment agreements for the costs of residential accommodation.)
  - (d) Section 14 (The making of payments to an NHS body in connection with the performance of the functions of that body.)

15. The Mental Health (Care and Treatment) (Scotland) Act 2003
  - (a) Section 17 (The provision of facilities to enable the carrying out of the functions of the Mental Welfare Commission.)
  - (b) Section 25 (The provision of care and support services for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services.
  - (c) Section 26 (The provision of services designed to promote well-being and social development for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services.
  - (d) Section 27 (The provision of assistance with travel for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services.
  - (e) Section 33 (The duty to inquire into a person's case in the circumstances specified in 33(2).)
  - (f) Section 34 (The making of requests for co-operation with inquiries being made under section 33(1) of that Act.)
  - (g) Section 228 (The provision of information in response to requests for assessment of the needs of a person under section 12A(1)(a) of the Social Work (Scotland) Act 1968.)
  - (h) Section 259 (The securing of independent advocacy services for persons who have a mental disorder.)
  
16. Management of Offenders etc. (Scotland) Act 2005
  - (a) Sections 10-11 (Assessing and managing risks posed by certain offenders.)
  
17. The Housing (Scotland) Act 2006
  - (a) Section 71(1)(b) (assistance for housing purposes) only in so far as it relates to an aid or adaptation.
  
18. Adoption and Children (Scotland) Act 2007
  - (a) Section 1 (Duty of local authority to provide adoption service.)
  - (b) Sections 4-6 (Local authority to prepare and publish a plan for the provision of adoption service; local authority to have regard to Scottish Ministers' Guidance and; assistance in carrying out functions under sections 1 and 4.)
  - (c) Sections 9-12 (Adoption support services.)
  - (d) Section 19 (Local authority's duties following notice under section 18.)
  - (e) Section 26 (Procedure where an adoption is not proceeding.)
  - (f) Section 45 (Adoption support plans.)
  - (g) Section 47-49 (Family member's right to require review of an adoption support plan; cases where local authority under a duty to review adoption support plan and; reassessment of needs for adoption support services).
  - (h) Section 51 (Local authority to have regard to guidance issued by Scottish ministers when preparing or reviewing adoption support plans.)
  - (i) Section 71 (Adoption allowances schemes.)

- (j) Section 80 (Application to court by local authority for the making of a Permanence Order.)
- (k) Section 90 (Precedence of court orders and supervisions requirement over permanence order.)
- (l) Section 99 (Duty of local authority to apply for variation or revocation of a permanence order.)
- (m) Section 101 (Notification requirements upon local authority.)
- (n) Section 105 (Notification requirements upon local authority where permanence order is proposed – relates to child’s father.)

19. The Adult Support and Protection (Scotland) Act 2007

- (a) Section 4 (The making of enquiries about a person’s wellbeing, property or financial affairs.)
- (b) Section 5 (The co-operation with other councils, public bodies and office holders in relation to inquiries made under section 4.)
- (c) Section 6 (The duty to have regard to the importance of providing advocacy services.)
- (d) Section 7-10 (Investigations by local authority pursuant to duty under section 4.)
- (e) Section 11 (The making of an application for an assessment order.)
- (f) Section 14 (The making of an application for a removal order.)
- (g) Section 16 (Council officer entitled to enter any place in order to move an adult at risk from that place in pursuance of a removal order)
- (h) Section 18 (The taking of steps to prevent loss or damage to property of a person moved in pursuance of a removal order.)
- (i) Section 22 (The making of an application for a banning order.)
- (j) Section 40 (The making of an application to the justice of the peace instead of the sheriff in urgent cases.)
- (k) Section 42 (The establishment of an Adult Protection Committee.)
- (l) Section 43 (The appointment of the convener and members of the Adult Protection Committee.)

20. Children’s Hearings (Scotland) Act 2011

- (a) Section 35 (Child assessment orders.)
- (b) Section 37 (Child protection orders.)
- (c) Section 42 (Application for parental responsibilities and rights directions.)
- (d) Section 44 (Obligations of local authority where, by virtue of a child protection order, child is moved to a place of safety by a local authority.)
- (e) Section 48 (Application for variation or termination of a child protection order.)
- (f) Section 49 (Notice of an application for variation or termination of a child protection order.)
- (g) Section 60 (Duty of local authority to provide information to Principal Reporter.)
- (h) Section 131 (Duty of implementation authority to require review of a compulsory supervision order.)
- (i) Section 144 (Implementation of a compulsory supervision order: general duties of

implementation authority.)

- (j) Section 145 (Duty of implementation authority where child required to reside in a certain place.)
- (k) Section 153 (Secure accommodation.)
- (l) Sections 166-167 (Requirement imposed on a local authority: review and appeal.)
- (m) Section 180 (Sharing of information with panel members by local authority.)
- (n) Section 183-184 (Mutual assistance.)

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

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

22. Carers (Scotland) Act 2016

- (a) Section 6 (Duty to prepare adult carer support plan)
- (b) Section 21 (Duty to set local eligibility criteria for carer support)
- (c) Section 24 (Duty to provide support)
- (d) Section 25 (Provision of support to carers: breaks from caring)
- (e) Section 31 (Duty to prepare local carer strategy)
- (f) Section 34 (Information and advice service for carers)
- (g) Section 35 (Short breaks services statements)

23. Miscellaneous

Exercise the foregoing functions of the Council in terms of the following legislation which relate to the services detailed in Part 1 hereof.

- Local Government (Scotland) Act 1973
- Local Government (Scotland) etc Act 1994
- Local Government in Scotland 2003

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

24. Appointment of: -

- (a) The Chief Officer of the Integration Joint Board in terms of section 10 of the Public Bodies (Joint Working) (Scotland) Act 2014.
- (b) The Chief Finance Officer of the Integration Joint Board appointed in terms of section 95 of the Local Government (Scotland) Act 1973.

Document Control Summary:-		
Location:	I:\Committee Services\Publications\02 Scheme of Administration	
Last Revised:	Revised By	Nature of Revision
May 2022	AC	Created for New Administration



## **NORTH AYRSHIRE COUNCIL**

**18 May 2022**

### **North Ayrshire Council**

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**Title:** **Standing Orders Relating to Meetings and Proceedings of the Council and Committees**

**Purpose:** To approve the Council's Standing Orders relating to Meetings and Proceedings of the Council and Committee, one of the key governance documents regulating the operation of the Council, its Committees and Officers.

**Recommendation:** That the Council agrees to approve, with immediate effect, the Standing Orders for Meetings of the Council, attached at Appendix 1.

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#### **1. Executive Summary**

- 1.1 This report seeks approval by Council of the Standing Orders, one of the key governance documents regulating the operation of the Council, its Committees and Officers.

#### **2. Background**

- 2.1 Audit Scotland in their report "Roles and working Relationships – Are you Getting it Right?" stressed the importance of having governance arrangements that are fit for purpose and up-to-date. They note that such documents are critical in clarifying roles, responsibilities and expected behaviour and should be reviewed regularly. Good governance arrangements lead to sound decision-making. While the key governance documents were all fully reviewed in the lifetime of the previous Council, the opportunity has been taken to bring them up to date.

#### **Standing Orders**

- 2.2 The Standing Orders for Meetings set out the rules for decision taking and define how a Council and its committees conduct their business democratically. While the Standing Orders inevitably try to provide for every eventuality, a summary of the core procedure is contained at Appendix E to the Standing Orders. Approval of the Standing Orders with immediate effect will mean that the new Standing Orders will apply for the remainder of the meeting.

2.3 The main suggested revisions which have been made to the previous Standing Orders are:

- Clarification of the circumstances when a special meeting of Council will be held;
- Regulation of the type of business that can be considered at the last Council meeting prior to a local government election;
- That Council meetings can be re-scheduled in exceptional circumstances;
- Clarification of the process for removal of Members from any position held;
- Inclusion of more detailed provision on the code of conduct;
- Provision for the order of the agenda and transactional process for the annual budget setting meeting;
- Provision for curtailment of any item of business after a period of 45 minutes has elapsed, excluding budget setting and consideration of quasi judicial matters.
- Provision for a new process for consideration of questions lodged in advance of the Council Meeting including:
  - The time allocated on the agenda for consideration of questions lodged “question time” will be 45 minutes;
  - The order in which questions will appear on the agenda will be determined by drawing lots. Questions will be divided into four lots comprising Main Opposition, Second Opposition, Independent Members and the Administration with questions being drawn at random from each lot in turn until all questions have been ordered on the agenda;
  - At the meeting, the question may be read out verbally by the Member or taken “as read” and the response treated likewise. No preamble will be permitted and supplementary questions arising directly from the answer given to the original question may be permitted at the discretion of the Provost. The time for delivery of a supplementary question and answer will each not exceed 2 minutes. If a Member does not have the opportunity to seek a supplementary question because no time remains, they can submit it in writing to the Chief Executive by 10am on the morning immediately following the meeting who will arrange for a written answer to be provided;
  - In the event that time does not permit all questions on the agenda to be dealt with, the written question and answer will be included as part of the Minute and a written supplementary question of clarification will be permitted and responded to after the meeting;
  - No question which is the same or similar to one asked in the previous 6 months will be permitted.
- Provision that amendments to motions lodged in advance of the meeting will require to be notified by 2pm on the Monday preceding the meeting and after having been checked for competency, circulated to Members in advance of the meeting;
- Clarification that an amendment to a motion must be directly relevant to the motion and in effect, a counter proposal, restricting itself to similar parameters of relevance, outcomes and timescales;
- Clarification on the competency of motions and questions including motions raised during pre-election periods which relate or could relate to political parties, candidates or campaign matters;
- Provision that the alternative voting procedure will apply to the Local Development Committee only;
- Some general rewording and formatting changes.

### **3. Proposals**

- 3.1 Council is invited to approve with immediate effect the Standing Orders for Meetings of the Council, attached at Appendix 1.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 Approval of the key governance documents is an essential component of the Council's financial governance arrangements.

#### **Human Resources**

- 4.2 None arising from the recommendations of this report.

#### **Legal**

- 4.3 Approval of the key governance documents is an essential component of the Council's legal and administrative arrangements.

#### **Equality/Socio-economic**

- 4.4 None arising from the recommendations of this report.

#### **Climate Change and Carbon**

- 4.5 None arising from the recommendations of this report.

#### **Key Priorities**

- 4.6 Clear, transparent governance arrangements promote good decision making. In turn, this supports the achievement of the Council's key priorities.

#### **Community Wealth Building**

- 4.7 None arising from the recommendations of this report.

### **5. Consultation**

- 5.1 There has been consultation with political Groups and Independent Members on the key governance documents. Executive Directors and relevant Officers have also been consulted as required.

Craig Hatton  
Chief Executive

For further information please contact **Aileen Craig, Head of Democratic Services**, on **01294 324125**.

#### **Background Papers**

None



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

## Standing Orders Relating to Meetings and Proceedings of the Council and Committees

Published by Committee Services  
North Ayrshire Council  
Cunninghame House, Irvine KA12 8EE

Classification: Public

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## **North Ayrshire Council**

### **Standing Orders Relating to Meetings and proceedings of the Council and Committees**

#### **Part I Preliminary**

- 1. These Standing Orders are made under Section 62 and Paragraph 8 of Schedule 7 of the Local Government (Scotland) Act 1973.** With the exception of the North Ayrshire Integration Joint Board, the Ayrshire Shared Services Committee, the Ayrshire Regional Economic Joint Committee and Sub-Committees thereof, the foregoing Standing Orders for meetings shall as far as applicable be the rules and regulations for the proceedings of Committees and Sub-Committees and therefore reference to the term 'Council' in the said Standing Orders should be interpreted accordingly. The North Ayrshire Integration Joint Board, the Ayrshire Shared Services Committee and Ayrshire Regional Economic Joint Committee and Sub-Committees thereof have their own Standing Orders for meetings. The term 'Provost' shall also be deemed to include the Chair of any Committee or Sub-Committee but only in relation to such Committees or Sub-Committees.
  
- 2. The Local Government (Scotland) Act 2003 permits the holding of and participation in remote meetings.**

## **Part II Standing Orders**

### **1. First Meeting of the Council after Elections**

- 1.1 The first meeting of North Ayrshire Council after an ordinary election of Councillors shall be held within twenty-one days from the date of the election. The Chief Executive will decide the date, time and venue of this first meeting. The venue may include a meeting held on a wholly remote basis by electronic means or in circumstances whereby some Members attend in person and others take part via remote means.
- 1.2 At the first meeting of the Council after an ordinary election of Councillors, the Returning Officer or the Chief Executive shall assume the Chair until the Provost is elected. The Council shall deal with the following business:
- i. To note the election of Councillors;
  - ii. To elect the Provost of the Council;
  - iii. To elect the Depute Provost of the Council;
  - iv. To take the sederunt, noting which Councillors have executed the Declaration of Acceptance of Office;
  - v. To elect the Leader of the Council;
  - vi. To elect the Depute Leader of the Council;
  - vii. To agree the Scheme of Administration setting out the committee structure of the Council;
  - viii. To appoint Members to any such Committees;
  - ix. To appoint Members of the Licensing Board;
  - x. To appoint representatives to outside bodies;
  - xi. To approve Constitutional Documents, including Standing Orders for Meetings;
  - xii. To agree the Timetable of Meetings;
  - xiii. To approve Members' Remuneration;
  - xiv. To deal with any other business specified in the notice calling the first meeting of the Council.

### **2 Ordinary Meetings of the Council**

- 2.1 Unless otherwise agreed to by Council, ordinary meetings of the Council shall be held in the Council Chamber, Cunninghame House, Irvine at 2pm on the Wednesday of the sixth week of each six-weekly cycle determined by the Council. If there is a large volume of business, or adverse weather conditions are expected, the Provost has power to change the start time to 1pm. Where it is deemed necessary, the Chief Executive, in consultation with the Provost, may also call for a meeting of the Council to take place on a wholly remote basis by electronic means or in circumstances whereby some Members attend the Council Chambers and others take part via remote means provided the technological solution permits. In circumstances where the meeting takes place on a wholly remote or "hybrid" basis the agreed protocol for holding the meeting on that basis will be adhered to. The protocols for remote and hybrid meetings are as agreed by the Chief Executive in consultation with the Provost, will be reviewed from time to time and notified to Members.

- 2.2 No sound, film, video tape, digital or photographic recording of the proceedings of any meeting, shall be made without the prior approval of the Council, other than recording of the proceedings by the Council, either for webcasting *or* as a back-up for a live-webcast or as an alternative where live-webcasting is not possible.

### **3 Special Meetings of the Council**

- 3.1 Special meetings of Council may be convened under the following circumstances: -
- i. At any time by decision of the Council
  - ii. To consider urgent Items which cannot wait until the next scheduled meeting of the Council
  - iii. By requisition of Members
  - iv. To set the Council's annual capital and revenue budgets
  - v. To determine Planning Applications in terms of the Town and Country Planning (Scotland) Act 1997 as amended, if required
  - vi. To consider any matter that requires to be determined at a Special Meeting of the Council in accordance with legislation
- 3.2 The Provost may convene a Special Meeting if it appears to him/her that there are items of urgent business to be considered. Such meetings will be held at a time, date and venue as determined by the Chief Executive. An appropriate venue may include a meeting held on a wholly remote basis by electronic means or in circumstances whereby some Members attend in person and others take part via remote means.
- 3.3 If the office of Provost is vacant, or if the Provost is unable to act for any reason, the Depute Provost of the Council may at any time call such a meeting. If the Offices of Provost and Depute Provost are both vacant or if neither the Provost nor the Depute Provost are able to act for any reason, the Leader of the Council, in consultation with the Leader of the Opposition may call such a meeting. In the event of these offices being vacant or otherwise unable to act, the Chief Executive may convene such a meeting.
- 3.4 A Special Meeting may be called by the Provost providing he/she has received a written requisition which specifies the purpose of the business proposed to be transacted at the meeting and is signed by at least nine Members of the Council. The date, time and venue of the meeting will be as determined by the Chief Executive but must be within fourteen days of receipt of the requisition.

### **4 Last Meeting of the Council prior to the Election**

- 4.1 At the last meeting of Council prior to the local government election, no new business, motions or questions may be brought before the meeting. All Minutes of the previous meeting or meetings of the Council to be approved, shall be submitted for approval and signed by the Provost as a correct record.

### **5 Notice of Meetings and Cancellation of Meetings**

#### **5.1 Public Notification**

Public notification of meetings shall be given by posting a notice at the Council Offices and on the Council's website, at least three Clear Working Days before the

meeting.

The notice of the meeting shall comprise:

- i. The date, time and place of the meeting; and
- ii. The list of items of business to be transacted. Except in the case of business which is legally required to be transacted at a meeting of Council or any other business brought before the meeting as a matter of urgency in accordance with these standing orders, no business shall be transacted at a meeting of the Council other than that specified in the notice of meeting.

### Notice to Councillors

5.2 Notice of meetings shall be given by the Chief Executive to all Councillors in accordance with the provisions of the 1973 Act as amended, by posting, delivering or sending by electronic means the following:

- i. The date, time and place of the meeting; and
- ii. The list of items of business to be transacted.

5.3 The validity of any meeting of the Council shall not be affected by the failure of any Member to receive notice of a meeting.

### Cancellation of Meetings

5.4 The Chief Executive may cancel any scheduled meeting for exceptional reasons (for example severe weather conditions) as are thought to be appropriate in consultation with the Provost, Leader of the Council and Leader of the Opposition. Cancellation will be intimated as soon as possible by email to Councillors and on the Council's website and the meeting will be re-scheduled.

## **6 Provost and Depute Provost**

### Election and Terms of Office

6.1 The Council will elect a Convener and Depute Convener from its Membership, to be known as 'Provost' and 'Depute Provost' respectively.

6.2 The terms of office of the Provost and Depute Provost shall, subject to paragraph 6.5, be the term of office of the Council, or, in the case of a person appointed to fill a casual vacancy, the remainder of that term.

6.3 A person holding the office of Provost or Depute Provost shall be eligible for re-election but shall cease to hold the office upon ceasing to be a Councillor.

6.4 On a casual vacancy arising in the offices of Provost or Depute Provost, an election to fill the vacancy shall be held as soon as practicable at a meeting of the Council. The notice for the meeting shall specify the filling of the vacancy as an item of business.

6.5 The appointment of Provost and Depute Provost will be for the term or remainder of the term of office of the Council unless provided otherwise by statute or by motion approved by Council to remove the Provost/Depute Provost. A motion to remove the Provost or

Depute Provost will be intimated in writing in accordance with these Standing Orders. Such motion requires to be approved by two thirds of the Members present and voting at the Council meeting in order to be carried. The Council may proceed immediately to fill any resultant vacancies.

#### Duties and Powers of Provost/Depute Provost

- 6.6 At a meeting of the Council, the Provost or in his/her absence the Depute Provost, whom failing such other Member as the meeting may decide, shall preside, whether in person or through remote access.
- 6.7 Respect will at all times be paid to the authority of the Provost or the Depute Provost, or such other Member presiding, when chairing any meeting of the Council.
- 6.8 It shall be the duty of the Provost to:
- i. Preserve order and ensure fairness in debate;
  - ii. Decide all matters of order, competency and relevancy;
  - iii. Ensure that Standing Orders are observed;
  - iv. Determine any questions of procedure for which no express provision has been made in these Standing Orders;
  - v. Maintain order and at his/her discretion, order the exclusion of any member of the public who is deemed to have caused disorder or misbehaved;
  - vi. Adjourn a meeting in the event of disorder arising to a time, which the Provost may then or afterwards, fix (the quitting of the Chair by the Provost shall be the signal that the meeting is adjourned). In the event the Provost quits the Chair without disorder having arisen, the meeting shall not be adjourned and the Depute Provost or in his/her absence another Member of the Council chosen by those Members present shall assume the Chair; and
  - vii. Decide whether to have a recess during a meeting.
- 6.9 The decision of the Provost on all matters within his/her powers shall be final and shall not be open to question or discussion.

### **7 Suspension of Members**

- 7.1 In the event of any Member disregarding the authority of the Provost or obstructing the meeting or conducting him/herself offensively, acting disrespectfully or in contravention of Standing Order 12.1 and the Provost calling the attention to the same, the Council may, on the motion of any Member, duly seconded and supported by the vote of a majority of the Members present and voting, suspend such Member for the remainder of the sitting. No debate will be allowed on such a motion. The Member concerned shall forthwith leave the Council Chamber, meeting place or remote meeting platform. The Provost may be entitled to call for such assistance as he/she deems necessary to enforce a decision to suspend any such Member taken in terms of these Standing Orders.

### **8 Appointment and Removal of Members**

- 8.1 The appointment of Members to any Committee, Joint Committee, Joint Board or outside body will be for the term or remainder of the term of office of the Council unless provided

otherwise by statute or by motion approved by Council to remove the Member from the Committee etc.

- 8.2 A motion to remove the Chair or Vice-Chair of a Committee requires to be intimated in writing in accordance with these Standing Orders and include a proposal for replacement to that office from the complement of the existing Members of the Committee.
- 8.3 A motion to remove an ordinary Member of Committee requires to be intimated in writing in accordance with these Standing The Council may proceed immediately to fill any resultant vacancy subject to the terms of Standing Orders 8.4 and 8.5 Notification of any vacancy filled in accordance with Standing Order 8.5 will be reported to the next available Council meeting for noting.
- 8.4 Wherever possible, Officers will give 10 Clear Working Days' notice of a vacancy, on any Committee, Joint Committees, Joint Board or outside body, the filling of which is to be considered at a subsequent Council meeting. Providing Members are given 10 Clear Working Days' notice, no nomination shall be considered for any such post unless (a) the nomination has been intimated in writing and delivered, or e- mailed to the Chief Executive not later than 2:00 p.m. on the Wednesday of the week preceding the meeting and (b) the consent of the person nominated is given at the time of nomination. Where less than 10 days' notice is provided, no nomination will be considered unless it has been intimated in the same manner by 12noon on the day of the meeting.
- 8.5 Where any appointed or nominated Member is a member of a political group within the Council, then where such member is on Family Leave or resigns from a Committee or the Integration Joint Board, any replacement may be nominated by the political group notifying the Chief Executive. At least 10 Clear Working Days' notice is required before the change is implemented. Any replacement must be nominated by the relevant political group within 12 weeks of the vacancy or resignation occurring failing which, the vacancy will fall to be filled in accordance with the procedure set out in Standing Order 8.4
- 8.6 Subject to the provisions of Section 35 of the 1973 Act, if a Member fails throughout a period of six consecutive months to attend any meeting of the Council, Committee, Joint Committee or Joint Board to which any function of the Council has been delegated, or to attend as a representative of the authority at a meeting of any body of person, she/she shall, unless the failure to attend was due to some reason approved by Council cease to be a Member of North Ayrshire Council. A Member who has properly notified the Council, by intimating in writing to the Chief Executive that they are on Family Leave, will be deemed to have a reason approved by Council for non attendance at Council and its Committees.

## **9 Quorum**

- 9.1 Subject to the provisions of the 1973 Act, no business will be transacted at a meeting of the Council unless nine Members are present. For the avoidance of doubt, the definition of present' shall include the participation of Members via a remote meeting platform.
- 9.2 If at a time ten minutes after the appointed commencement for the meeting a quorum is not present the meeting will stand adjourned. If at any time after a meeting has commenced a quorum of Members is not present the Provost or in his/her absence, the Depute Provost of the Council shall adjourn the meeting and any business not considered will be postponed to and considered at the next meeting.

9.3 The quorum of other Committees and Sub-Committees of the Council will be dealt with in the Scheme of Administration. However, where no specific reference is made to a quorum, it will be one quarter of the membership of the Committee or Sub-Committee, subject to a minimum requirement of two Members.

9.4 If the Provost and the Depute Provost are absent from a Council meeting and the Council fails to elect another Member to chair that meeting, the meeting will not be convened.

## **10 Order of Business**

10.1 At all meetings of the Council other than the meeting held in accordance with Standing Order 1.2 above or a Special Meeting to set the budget, the order of business shall be:

- i. The Chair shall be taken in accordance with these Standing Orders;
- ii. The sederunt shall be taken;
- iii. Any apologies shall be tendered;
- iv. Any Declaration of Interest shall be tendered;
- v. Declaration of whether a Party Whip has been applied to any item;
- vi. Approval of the accuracy of Minutes of Council Meetings. There shall be no discussion of the minutes, except upon their accuracy and any question on their accuracy shall be raised by amendment to the motion to approve in accordance with Standing Order 29.3;
- vii. Provost's report
- viii. Leader's report;
- ix. Minutes of meetings of Committees of the Council- submission for noting, and for approval of any recommendations;
- x. Minutes of the Community Planning Partnership Board - submission for noting;
- xi. Requests to recognise the work of individuals or groups within North Ayrshire
- xii. Presentations
- xiii. Business expressly required by statute to be done at the meeting;
- xiv. Business (if any) remaining from the last meeting;
- xv. Any items from the Cabinet referred for determination;
- xvi. Any items referred by any of its Committees for determination by the Council; Appointment to Committees, Joint Committees, Joint Boards or outside bodies Any business as per the agenda Questions; Motions.

10.2 Items 10.1 vii, viii, xi, xv, xvi, xvii, xix and xx shall be business for Council meetings only, not for any Committee.

10.3 At meetings to consider the setting of the Council's annual revenue or capital budgets, the order and conduct of business shall be as follows:

- i. The Chair shall be taken in accordance with these Standing Orders;
- ii. The sederunt shall be taken;
- iii. Any apologies shall be tendered;
- iv. Any Declaration of Interest shall be tendered;  
Declaration of whether a Party Whip has been applied to any item;
- v. Budget business on the agenda shall be transacted in the following manner.

- a) The Officer will speak to the budget report;

- b) Members will be entitled to ask questions of the Officer on the content of the report.
- c) The Administration propose the motion, being the Administration's budget and Council Tax for the year;
- d) The main Opposition group (based on the largest opposition party in terms of numbers of councillors elected) will have the opportunity to propose any Amendment;
- e) The second Opposition group (based on numbers of councillors elected) will have the opportunity to propose any Amendment;
- f) Independent Members (if a formal group is formed) will have the opportunity to propose any Amendment;
- g) Any other Members (from individual parties or independent councillors) will have the opportunity to propose any Amendment on the basis of the order of intimating that intent to the Provost;
- h) Questions of clarification to those moving a motion or amendment or to officers about the report will be taken;
- i) If there is no amendment, the motion will be carried;
- j) If there is an amendment, and prior to going into debate, the Provost will call a recess;
- k) After recess the Provost will check if there are any changes to the Administration motion and the amendments, or whether there are any further amendments. To avoid confusion, motions and amendments retain their original order, namely Administration Motion, Opposition amendment, Second Opposition amendment, Independent amendment and other amendments;
- l) Questions of clarification on any amended motions or amendments will be permitted;
- m) Debate;
- n) Summing Up;
- o) Vote (s).

10.4 No item will be removed from the agenda unless with the agreement of all Members present.

10.5 The Provost at any meetings of the Council may alter the order of business to facilitate the conduct of the meeting.

10.6 A period of 45 minutes (excluding any period of recess) will be permitted to consider individual agenda items, excluding the budget and quasi-judicial items including time for any questions to officers, proposing and seconding motions and amendments, debate and summing up unless the Provost at his or her sole discretion determines otherwise and allows a longer period for consideration.

10.7 Subject to the right of any Member to move to close the debate earlier in accordance with Standing Order 16.2, the Provost may call for a vote on the agenda item, after 45 minutes has elapsed, subject to the right of the mover of any motion or amendment(s) to sum up prior to the matter being put to the vote.

#### Urgent Items

10.8 At all ordinary, special and statutory meetings of the Council, no business other than that on the agenda shall be discussed in terms of Section 50B of the 1973 Act except

where by reason of special circumstances which shall be specified in the Minutes, the Provost is of the opinion that the item should be considered at the meeting as a matter of urgency. The test for urgency is whether the matter could wait to a subsequent meeting. Any request for urgent business must be intimated to the Provost two hours prior to the meeting. The Provost will advise Council of the terms of the request and advise whether the item is to be considered, and if so, at what stage during the meeting.

#### Declaration of Party Whip

- 10.9 When a Party Group represented on the Council has applied the party whip binding party Members to adhere to their decision on an item of business before the Council, a declaration to this effect must be made by the Leader or Depute Leader of that Party, whom failing a Member of that party at the commencement of the meeting.

#### Provost and Leader's reports

- 10.10 The reports by the Provost and Leader shall be heard by the Council as matters of information and shall not be subject to questions, debate or motions.

### **11 Declarations of Interest**

- 11.1 If any Member of the Council has a financial or non-financial interest in any contract or any other matter as defined by section 5 of the Code of Conduct for Councillors and is present at any meeting at which the matter is to be considered, he/she must, as soon as practical, after the meeting starts, disclose that he/she has an interest and the nature of that interest. The Member must leave the meeting or remote meeting platform (as applicable) unless the interest is covered by one of the exclusions in the Councillors' Code of Conduct or is so remote or insignificant that a member of the public, knowing all the relevant facts, would reasonably regard the interest as so insignificant that it would be unlikely to prejudice the Councillor's discussion or decision making.
- 11.2 Where a Member declares an interest and leaves the meeting or remote meeting platform (as applicable) the facts will be recorded in the minutes of the meeting.

### **12 Code of Conduct**

- 12.1 All Members of the Council are accountable for their own individual conduct and must observe the Code of Conduct for Councillors and any guidance issued by the Standards Commission for Scotland, the law and the terms of the Council's Standing Orders. In addition to the forgoing generality, the following standards of behaviour at meetings of the Council and its Committees must be observed:
- 12.2 Members must respect and behave courteously towards to the Provost, Member colleagues, Council employees and any members of the public present at meetings or other formal proceedings of the Council.
- 12.3 Members shall conduct themselves in an orderly, courteous and respectful manner and comply with the rulings of the Provost and otherwise respect the authority of the Provost. This includes rulings on the proper and timely conduct of meetings, the acceptability of conduct and language used, and the fairness and sufficiency of the debate. When the Provost speaks, any Member who is addressing the meeting will stop speaking immediately. No Members will speak until the Provost has finished speaking.

12.4 When a Member is addressing the meeting, other Members shall not converse or otherwise behave in a manner which is disruptive to the Member speaking or to the meeting. Abusive or offensive language shall not be acceptable and Councillors shall have regard at all times to the requirements of the equalities legislation. Members must wait to be invited by the Provost to speak at any meeting.

12.5 All phones should be switched off or on silent and Members should not correspond, whether by email, text, social media or any other electronic means with any other Member or other person during a Council meeting. Research through the internet is permitted providing it is done in a manner which respects the authority of the Provost and does not interfere with the business of the meeting. Such restrictions shall not preclude participation in a meeting which takes place over a remote meeting platform.

### **13 Public Access to Meetings**

13.1 Every meeting of the Council shall be open to the press and public to the extent that they are not excluded under the provisions of Sections 50A (2) and (4) of the 1973 Act.

13.2 The Council may by resolution at any meeting exclude the press and public therefrom during consideration of an item of business where it is likely in view of the nature of the business to be transacted or of the nature of the proceedings that if Members of the press and public were present there would be a disclosure to them of exempt information as defined in Schedule 7(A) of the 1973 Act or it is likely that confidential information would be disclosed in breach of an obligation of confidence. The categories of exemption, which may apply under Schedule 7(A) of the 1973 Act, are set out in Appendix A.

13.3 These provisions shall be without prejudice to the Provost's powers of exclusion in order to suppress or prevent disorderly conduct or other misbehaviour at a meeting as detailed in Standing Order 6.8 hereof.

### **14 Questions**

#### Questions submitted in advance of a meeting

14.1 Any Member may ask a question at any meeting of the Council concerning any relevant and competent business not arising upon the agenda provided the terms of the question have been intimated in writing and delivered or e-mailed to the Chief Executive not later than 2.00 p.m. on the Monday of the week preceding the meeting. The question as tabled should not include supplementary or contextual text. With the exception of questions to which a political response is sought, written responses to the questions tabled will be issued immediately prior to the meeting and uploaded to the Council's website. Political responses to questions will be uploaded after the meeting.

14.2 The agenda of the Council meeting will allow a period of 45 minutes (excluding any period of recess) to consider and respond to questions submitted by Members in advance of the meeting unless the Provost at his or her sole discretion determines otherwise and allows a longer period for consideration. In the event that all questions tabled are not transacted within the allocated time, the questions as tabled and written answers as intimated immediately prior to the commencement of the meeting will be included in the Minute of the Meeting. In respect of political questions tabled and not

answered orally during the allotted time period, a written response, as approved by the Provost in consultation with the Chief Executive and Solicitor to the Council for legal purposes, will be provided and included in the Minute of the meeting.

14.3 The Provost in consultation with the Chief Executive and Head of Democratic Services will determine the order in which questions so submitted are placed on the agenda by drawing questions received from lots to ensure equity of approach. The process for selecting the order of questions for the agenda is as follows:

- Questions received are divided into lots:
  - Lot one - main Opposition;
  - Lot two - second Opposition,
  - Lot three- Independent Members and Opposition Parties with fewer than 2 members and
  - Lot four - the Administration;
- A Member asking more than one question will have the first question submitted included in the appropriate lot for selection;
- Questions will be drawn at random from each lot (starting from Lot one) in rotation until all questions have been ordered on the agenda;
- Thereafter, where a Member(s) has submitted more than one question, the next question (from the order submitted or by order of preference indicated by the Member), will be included in the appropriate lot to be drawn at random from each lot in rotation;
- The process proceeds until all questions have been allocated to the agenda;

14.4 The Member asking the question at the Council meeting may read out the question tabled. No preamble shall be permitted. The time for delivery of each question tabled to Council for response shall not exceed 2 minutes. Responses to questions should also be delivered within 2 minutes but may also be taken "as read" in the event that the Member asking the question so agrees. The Provost may at his or her discretion allow a supplementary question arising directly from the answer given to the original question. The time for delivery of a supplementary question and answer will each not exceed 2 minutes. If a Member does not have the opportunity to seek a supplementary question because no time remains, they can submit it in writing to the Chief Executive by 10am on the morning immediately following the meeting who will arrange for a written answer to be provided

14.5 No discussion or resultant motions at the meeting to which the question is put shall be competent on any questions so intimated or answers given.

14.6 Such questions may be directed to the Leader of the Council, any Cabinet Member, The Chair of any Committee, the Leaders of the Opposition or Council representatives on Outside Bodies. Such questions must relate to the functions of such office holder or member.

#### Competency of Questions

14.7 A question shall not be deemed competent for inclusion on the agenda if, in the opinion of the Solicitor to the Council the question is:

- Likely to be illegal, defamatory or in breach of Data Protection principles;

- Contrary to Standing Orders;
- The same or similar to a question asked at Council in the previous 6 months;
- Similar in terms to a question that has already been submitted to the same meeting by another Member;
- Received during pre-election periods and relates or could relate to political parties, candidate(s) or campaign matters in the election or referendum concerned.

In such circumstances or if the notice of question gives rise to other concern in terms of competency, the Solicitor to the Council shall immediately submit such notice of question to the Provost and it shall not be accepted and placed on the agenda without his/her sanction. In the event of non-acceptance, the Solicitor to the Council shall so inform the Member who submitted the notice of question who will accept the decision of the Provost as final.

#### Questions relating to items of business on an Agenda

- 14.8 As Members have the opportunity to submit Congratulatory Motions in terms of Standing Order 15.3, it shall not be competent to ask a question which seeks to congratulate, commend or recognise any individual or group in relation to their achievements or activities in North Ayrshire.
- 14.9 Except when in debate any Member may ask a question at any meeting of the Council concerning any item of business arising upon the agenda. Such questions must be relevant to the item of business under consideration and must be directed to any senior officer seeking clarification of the terms of a report or to the mover or seconder of any motion or amendment seeking clarity of their motion or amendment.
- 14.10 Except on a point of order or with the agreement of the Provost it shall not be competent for any Member to ask a question once Council is in debate.
- 14.11 In relation to both a question submitted in advance of a meeting and a question relating to an item on the agenda, the person answering must ensure there is a reasonable factual basis for any statement of fact made in their response.

#### Questions of Order

- 14.12 A Question of Order shall relate only to an alleged breach of a Standing Order. Any Member indicating a desire to raise a question of order shall state at the outset the number or terms of the Standing Order considered to be infringed and the way in which the Member raising it considers that it has been broken. When a Question of Order is raised, the Member then addressing the meeting will stop until the determination of the Question of Order. No Member other than the Member who raised the Question of Order will speak to that question, except with the permission of the Provost.
- 14.13 The decision of the Provost on a Question of Order will be final. No debate on a point of order is permitted. After a Question of Order is decided, the Member who was addressing the meeting at the time when it was raised will be entitled to proceed with the discussion, giving effect to the Provost's ruling.

## 15 Motions

### Notices of Motion or Amendment

- 15.1 No Member shall be entitled to propose a motion other than one directly arising out of an item of business on the agenda of the meeting unless the proposer and seconder have delivered or e-mailed notice of the terms of the motion to the Chief Executive not later than 2.00 p.m., on the Monday of the week preceding the meeting. It will be competent for any Member of the Council to move a motion of which the requisite notice has been given.
- 15.2 Except as otherwise provided in these standing orders, it shall also be competent for any Member to propose a motion or amendment relating to any item of business on the agenda of a meeting, providing such motion or amendment is directly relevant to the item under consideration. For amendments proposed in relation to motions lodged under Standing Order 15.1, notice of amendment from the proposer and seconder must be emailed to the Chief Executive not later than 2pm on the Monday prior to the Council meeting and after having been checked for competency, will be circulated to Members in advance of the meeting. For meetings of North Ayrshire Council only, such motion or amendment shall be displayed at the meeting.
- 15.3 Any motion or request signed by at least two Members which seeks to congratulate, commend or recognise any individual or group in relation to their achievement or activities within North Ayrshire shall be included in the agenda item detailed in Standing Order 10.1 (xi). That item will simply detail the name of the person or group to be recognised and the reason for the recognition. In the absence of any dissent, the agenda item will be treated as approved. If there is any dissent as regards and particular individual or group, the matter shall proceed to a vote, without any questions or debate.
- 15.4 A notice of motion or amendment shall not be deemed competent for inclusion or consideration on the agenda if, in the opinion of the Solicitor to the Council the motion or amendment is:
- Likely to be illegal, defamatory or in breach of Data Protection principles;
  - Likely to give rise to a contravention by the Council of any enactment or rule of law or of any code of practice made or approved by or under any enactment;
  - Contrary to Standing Orders;
  - The same or similar to a motion determined at Council in the previous 6 months;
  - Similar in terms to a motion that has already been submitted to the same meeting by another Member;
  - Likely to incur expenditure, the source of which has not been identified;
  - Likely to result in a reduction of income, the compensatory source for the income lost not having been identified;
  - Proposing use of the Council's reserves as a source of funding for the purpose of the motion or amendment without the prior advice and agreement of the Chief Financial Officer having been obtained;
  - Required to be assessed for equalities impact;
  - Imprecise as to outcome;
  - Received during pre-election periods and relates or could relate to political

parties, candidate(s) or campaign matters in the election or referendum concerned.

In such circumstances or if the notice of motion or amendment gives rise to other concern in terms of competency, the Solicitor to the Council shall immediately submit such notice to the Provost and it shall not be accepted, placed or considered on the agenda or at the meeting without his/her sanction. In the event of non acceptance, the Solicitor to the Council shall so inform the Member who submitted the notice of motion or amendment who will accept the decision of the Provost as final.

#### Motions arising from Outside Bodies

- 15.5 In the event of the Chief Executive or the Leader of the Council receiving a request for support of a motion or resolution passed by another local authority or other public body, the procedure set out in Appendix C to these Standing Orders shall apply. The procedures for Motions as provided for in Standing Order 15.1 shall apply equally in such circumstances.

#### Time for Consideration of Motions

- 15.6 The time to deal with each motion including time for any questions, proposing and seconding motions and amendments, debate and summing up, (but excluding any period of recess) shall be no longer than 45 minutes unless the Provost at his or her sole discretion determines otherwise and allows a longer period for consideration. Subject to the right of any Member to move to close the debate earlier in accordance with Standing Order 18.2, the Provost may call for a vote on a motion, after 45 minutes have elapsed, subject to the right of the mover of any motion or amendment(s) to sum up prior to the matter being put to the vote.

### **16 Procedure Prior to Debate**

- 16.1 In relation to items of business on the agenda, the Provost will ask the Council Administration if they wish to propose a motion (except in relation to 10.1 (xx) Motions, when the proposer of the motion shall be given the first opportunity to propose the motion, which failing, any Member may propose the motion). If a member of the Council Administration does not propose a motion, any Member may propose a motion. Any such motion must be immediately seconded. Thereafter the Provost will seek any amendments, which should also be seconded. The proposer and seconder of any motion or amendment may speak to their motion or amendment for up to 5 minutes when proposing it, otherwise shall be allowed to speak to it during debate. Where the motion or amendment relates to the annual setting of the General Fund or Housing Revenue Account revenue or capital budget or level of Council Tax or housing rent, the proposer and seconder of any motion or amendment will not speak for any more than 10 minutes when proposing it, except with the consent of the Provost, otherwise shall be allowed to speak to it during debate.
- 16.2 All motions and amendments must be directly relevant to the report to which they refer. Any amendment to a motion lodged in accordance with Standing Order 15.1 shall be a counter proposal to the respective motion and restrict itself to the same parameters of relevance, outcomes and timescales.

The Provost shall have the authority to rule out of order:

- any motion or amendment which he/she may consider irrelevant;
- any motion which is substantially the same as a previous motion on the agenda;
- any amendment which is substantially the same as the motion or another amendment;
- any amendment which is in the opinion of the Provost insufficiently linked to the business/motion under consideration and falls outwith the appropriate parameters of relevance which the Provost shall at his or her sole discretion determine.

16.3 A Member who has moved an amendment but failed to find a seconder may if he/she so requests have his/her dissent to a decision recorded in the minutes. Such a request may also be made by any Member whether or not he/she has moved a motion or amendment.

16.4 For meetings of North Ayrshire Council only, any motion or amendment shall be displayed at the meeting. Notwithstanding this, the terms of such motion or amendment require to be repeated or referred to by the Member moving such.

16.5 A motion or amendment once moved and seconded shall not be altered nor withdrawn without the consent of the mover and seconder. Once in debate the consent of Council will be required to the alteration or withdrawal of any motion or amendment. If the motion is withdrawn, the first amendment which is not the direct negative becomes the motion.

16.6 No Member shall move or second more than one motion or amendment upon a particular issue although a Member who has moved or seconded a motion or amendment shall not be precluded from moving or seconding a fresh amendment if he or she fails to find a seconder for their motion or if the original motion or amendment is withdrawn.

16.7 As detailed in Standing Order 14.9, prior to debate any Member may ask a question at any meeting of the Council concerning any item of business arising upon the agenda. Such questions must be directly relevant to the item of business under consideration and must be directed to any senior officer seeking clarification of the terms of a report or to the mover or seconder of any motion or amendment seeking clarity of their motion or amendment. A Member may also ask the mover and seconder of the motion or amendment if they are prepared to amend or alter their motion or amendment to achieve consensus.

## **17 Debate**

17.1 There shall be no debate unless there is a motion and amendment both of which are seconded.

17.2 When the Provost is satisfied that there are no more motions, amendments or questions to be raised he or she will state that Council is in debate.

17.3 Once in debate, no other motion or amendment will be moved except in the following circumstances:-

- to suspend a Member in terms of Standing Order 7;
- to adjourn the debate in terms of Standing Order 6.8 or 18.1; or

- to close the debate in terms of Standing Order 18.2

17.4 Once in debate, no question will be asked except in the following circumstances:

- a question of order in terms of Standing Order 14.12;
- with the agreement of the Provost

17.5 The mover of a motion or an amendment will not speak for more than five minutes, except with the consent of the Provost. Each succeeding speaker will not speak for more than five minutes. When the Member has spoken for the allotted time, he/she will be obliged to finish speaking, otherwise the Provost will direct the Member to cease speaking.

Where the item under discussion is the annual setting of the General Fund or Housing Revenue Account revenue or capital budget or level of Council Tax or housing rent, the proposer and seconder of any motion or amendment will not speak for any more than 10 minutes, except with the consent of the Provost.

17.6 Every Member of the Council who speaks at any meeting of the Council will address the Provost and direct his/her speech to the subject matter of the item of business.

17.7 Subject to the right of the mover of a motion, and the mover of an amendment, to reply, no Member will speak more than once on the same item of business at any meeting of the Council, except: -

- on a question of order;
- with the permission of the Provost
- and in either of these cases no new matter will be introduced.

17.8 Summing-up: - The mover of an amendment and thereafter the mover of the original motion will have a right of reply for a period of not more than 5 minutes. He/she will introduce no new matter and once a reply is commenced, no other Member will speak on the subject of debate. Once these movers have replied, the discussion will be held closed and the Provost will call for the vote to be taken.

17.9 Officers present at the meeting, with the exception of the Chief Executive, the Solicitor to the Council, the Chief Financial Officer and the Chief Social Work Officer will not be allowed to address the Council once the Council is in debate, except: -

- where the Officer has been asked a direct question by the Provost;
- where a question of legal or financial propriety or Best Value requires to be addressed or clarified;
- where the Officer is asked to address an issue for clarification by the Provost; and where the Provost decides that the Officer's advice is required.

17.10 It should be noted that Officers should be treated in accordance with the Protocol for Member/Officer relations and the provisions of the Code of Conduct for Councillors.

## **18 Procedural Motions**

18.1 Any Member of the Council may, at the conclusion of any speech move that the Council adjourns and such motion will have precedence over all other motions. Such a motion

must be seconded but need not be reduced to writing. It will be moved and seconded without discussion and will immediately be put to the meeting. When an adjourned meeting is resumed, subject to Standing Order 10 it will commence at the point at which it was broken off at the adjournment.

- 18.2 It will be competent for any Member who has not already spoken in a debate to move the closure of such debate. On such motion being seconded, the vote will be taken, and if a majority of the Members present vote for the motion, the debate will be closed.

However, closure is subject to the right of the mover of the motion and of the amendment(s) to reply. Thereafter, a vote will be taken immediately on the subject of the debate.

## **19 Voting**

- 19.1 All business of the Council will be decided by a majority vote of those Members present and voting, except in those circumstances where these Standing Orders specify that a two-thirds majority is required in terms of Standing Orders 6.5, 19.5, 23.1 and 25.1.
- 19.2 When a motion and two or more amendments to it are before a meeting and any one of the proposals, in the opinion of the Provost, implies negation, the vote shall be taken on the proposal involving negation as soon the debate is completed and before the vote, if any, on the remaining proposals is taken. The proposal involving negation shall be put to the meeting in the form of "proceed" or "not proceed". If "not proceed" is carried by majority of votes, the remaining proposals shall drop, but if "proceed" is carried a vote shall be taken between the remaining proposals as hereinafter provided.
- 19.3 Where a motion and one amendment only are before the meeting these will be voted on together, but if there are more amendments than one, the amendment first proposed will be put against the motion. The winner will then be put against the second amendment, and so on.
- 19.4 If a Member wishes his/her abstention to be recorded in the minutes, he/she must immediately declare so to the meeting when the vote has been taken.
- 19.5 For the Local Development Plan Committee only, where there is more than one amendment, and two thirds of the members present and voting so decide, the following alternative procedure to that detailed in Standing Order 19.3 hereof may be adopted:- if there are more amendments than one, the amendments will each be the subject of a separate debate, vote and determination, starting with the first amendment. If the first amendment is agreed, the substantive motion will be altered to give effect to the wording of that amendment before debate, vote and determination of the second amendment and so on. Once the debate on the first amendment commences, no new motion or amendment shall be lodged, except in the circumstances set out in Standing Order 16.3. Except as required to give effect to this paragraph, all remaining provisions of Standing Orders shall remain in full force and effect.

### Casting Vote

- 19.6 In the case of an equality of votes, the Provost or Depute Provost if presiding, or in the absence of the Provost/Depute Provost, such other Member presiding, shall have a

second or casting vote except where the matter which is the subject of the vote relates to the appointment of a Member to any particular office or Committee, in which case the decision shall be by lot.

### Roll Call Votes

19.7 Voting shall normally be by a show of hands but at the Council Meeting which is held in person, , if not less than six of the Members present so request, the name of each Member voting or declining to vote shall be recorded in the minute by the Chief Executive by calling the roll of the Members. In relation to Committees held in person, no less than three Members will be required to request a roll call vote. Where the meeting is being held via a remote meeting platform, and unless Council agrees to use an electronic voting System which transparently displays how individual Members have voted, all voting shall be by roll call vote.

### Voting by Ballot

19.8 If the Council so decides, voting shall be by ballot, which shall be undertaken by the Chief Executive to ensure the secrecy of the vote. A decision to proceed by ballot shall require a majority of those Members present and voting before the ballot may be undertaken. Where the meeting is being held via a remote meeting platform, unless there an agreed electronic voting system is in use which allows for a secret ballot, such a ballot may not be feasible, and voting shall instead be by roll call vote.

## **20 Voting on Appointment of Members**

20.1 In the case of an appointment where only one vacancy requires to be filled and there are two or more candidates, a vote shall be taken between the candidates and the one receiving the most votes shall be declared duly appointed. In the event of an equality of votes, the candidate selected in a cut of cards as having the highest value card (ace high) shall be declared duly appointed.

20.2 In the case of appointments where more than one vacancy requires to be filled and the number of candidates nominated exceeds the number of vacancies, voting shall take place. Each Member shall be entitled to vote for one candidate for each vacancy and the candidates receiving the highest number of votes shall be appointed to the number of vacancies to be filled. In the event of an equality of votes the candidate selected in a cut of cards as having the highest value card (ace high) shall be declared duly appointed.

## **21 Disclosure of Information**

21.1 Information, whether contained in a document or otherwise, which is confidential information within the meaning of Section 50A of the 1973 Act, shall not be disclosed to any person by any Member or Officer.

21.2 The full or any part of a document marked "not for publication by virtue of the appropriate paragraph of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973" shall not be disclosed to any person unless or until the document has been made available to the public or the press under Section 50B of the 1973 Act.

21.3 Any information regarding proceedings of the Council from which the public may have been excluded shall not be disclosed to any person unless or until disclosure has been

authorised by the Council or the information has been made available to the press or to the public under Section 50B of the 1973 Act.

- 21.4 Without prejudice to the foregoing no Member shall use or disclose to any person any confidential and/or exempt information coming to his/her knowledge by virtue of his/her office as a Member where such disclosure would be to the advantage of the Member or of anyone known to him/her or which would be to the disadvantage of the Council.

## **22 Appointment of Executive Directors**

- 22.1 The appointment of any permanent Chief Officer of the Council shall be undertaken by the Staffing and Recruitment Committee or any other such panel of Elected Members. All appointments made below Chief Officer level shall be made by the relevant Chief Officers in consultation with the Chief Executive.

## **23 Suspension of Standing Orders**

- 23.1 Any one or more of the Standing Orders in any case of urgency as determined by the Provost upon a motion made, may be suspended at any meeting provided that two thirds of the Members of the Council present and voting shall so decide. It shall not be competent for the Council to suspend any Standing Order which gives effect to any provision of Schedule 7 to the Local Government (Scotland) Act 1973 or any other statutory provision. (This covers the arrangements for meetings and proceedings of Local Authorities).

Any Member competently moving the suspension of Standing Orders shall be entitled to speak for a period of not more than five minutes and shall confine his/her remarks to the reasons for the proposed suspension. The seconder of any such motion shall not speak other than to formally second the motion (no other Member shall be entitled to speak to the motion or to the amendment).

- 23.2 If any amendment is made against suspension of Standing Orders the mover of any such amendment shall again be entitled to speak for not more than five minutes and shall similarly confine his/her remarks to the reasons against suspension. The seconder of an amendment shall not speak other than to formally second the amendment. There will be no discussion on the motion or the amendment and the motion to suspend standing orders or not will immediately be put to the vote.

## **24 Variation and Revocation of Standing Orders**

- 24.1 It shall not be competent at any meeting of the Council to revoke or vary any of the Standing Orders except:
- i. Upon a resolution to that effect at an Ordinary meeting of Council following a notice given at a previous Ordinary Meeting of the Council; or
  - ii. Upon the Chief Executive submitting to any meeting of the Council a report on any new Standing Order or alteration of any existing Standing Order which appears to be required in consequence of any decision regarding the conduct of business which has been taken by the Council

or which is otherwise required for the good governance of the Council.

- 24.2 Any motion to revoke or vary these Standing Orders will, when voted on, be approved by a majority of the Members present and voting.
- 24.3 In the case of a pandemic or other public health emergency where Council is unable to meet, and in consultation with the Leader of the Council, and the Leader of all Groups, an Independent Member nominated by the Independent Members, and the Monitoring Officer, and if required to enable effective decision making or otherwise in relation to the emergency, the Chief Executive has power to amend these Standing Orders.

## **25 Rescinding/Revocation of Previous Decision/Resolution**

- 25.1 Except where required by statute, no Decision of Council may be reconsidered and no item of business reconsidered which is the same or substantially the same as one previously determined by the Council within six months of the date of the making of the previous decision or determination, except where:-
- i. Two thirds of the Members for the time being present and voting agree to suspend Standing Orders in accordance with Standing Order 23 above; or
  - ii. In the opinion of the Solicitor to the Council not doing so would, result in a decision which is likely to give rise to a contravention by the Council of any enactment or rule of law or of any code of practice made by or approved by or under any enactment.
  - iii. The original Council Decision cannot be implemented due to reasons outwith the control of the Council; or
  - iv. Where, as a matter of urgency, having regard to the potential loss of life, risk of substantial economic loss to the Council or any third party, (including potential loss or material underutilisation of funds or resources not available at the time of the Decision of Council), it is deemed by the Chief Executive that the matter ought to be reconsidered by the Council.

This Standing Order does not limit the discretionary power of the Council as planning authority to decline to determine repeat planning applications.

## **26 Decisions of Cabinet: Call-In Process**

- 26.1 Minutes of the Cabinet will be sent to all Members of the Council by the end of the Working Day following the meeting, or as soon as practicable thereafter. No action will be taken to implement decisions until the expiry of four further Clear Working Days following the issue of the Minutes. Decisions can then be acted upon unless they have been called in or referred.
- 26.2 Members will be entitled to call-in decisions of the Cabinet on a requisition as set out in the Call in Request Form (Appendix D to these Standing Orders). This must be signed by three Members and delivered to the Chief Executive, or submitted electronically, via an individual email to the Chief Executive from each of the three Elected Members in question. Such requisition must be received no later than 12 noon on the fourth Clear

Working Day following, and not counting, the day on which the Cabinet Minute was issued. Such requisition must state the reason for the call in.

- 26.3 The Chief Executive will then immediately refer the matter to the Chair of the Audit and Scrutiny Committee who will be required within five Clear Working Days of receiving notification by the Chief Executive, to arrange a date for a meeting of the Committee to consider the call-in.
- 26.4 The Audit and Scrutiny Committee shall invite at least one of the Members who has requested the call-in to attend the Committee to explain the request. The Committee will also invite a representative from the Cabinet to present their views on the call-in request and thereafter invite any senior officer to provide information on the report presented to the Cabinet and on issues raised by the call-in. Except with the consent of the Chair, Members requesting the call-in will not speak for more than ten minutes in total, and the Cabinet representative will not speak for more than 10 minutes. If none of the Members who have made the reference attend the Audit and Scrutiny Committee the Committee may determine not to scrutinise the decision.
- 26.5 No Member of the Audit and Scrutiny Committee who has signed a call-in request may take part in consideration of the call-in request.
- 26.6 Where the Audit and Scrutiny Committee does not agree on a majority vote with the decision of the Cabinet the matter will be referred to the next meeting of the Cabinet. The Audit and Scrutiny Committee will determine recommendations for alternative action for the Cabinet. The Chair or another Member of the Audit and Scrutiny Committee nominated by the Chair will have the right to attend the Cabinet and speak in support of its recommendation on that matter.
- 26.7 The Cabinet will at its next meeting consider the recommendation from the Audit and Scrutiny Committee and shall either agree to the recommendation or refer the matter to the next meeting of the full Council.
- 26.8 In the event of the matter being referred to the full Council, the decision of the full Council shall be final and binding.

## **27 Discharge of Functions by Committees and Officers**

### Scheme of Administration for Committees

- 27.1 The Council may arrange for the discharge of its functions by a Committee or Sub-Committee and will adopt a Scheme of Administration to (a) detail the constitution of the Committees and/or Sub-Committees of the Council (including composition, Chair, and quorum); and (b) determine the terms of reference of the Committees and Sub-Committees and the scope of their powers to exercise functions of the Council.
- 27.2 The Scheme of Administration will establish a Cabinet (which will also act as an Education Committee as required), Audit and Scrutiny Committee and such other Committees or Sub-Committees as the Council may from time to time determine.
- 27.3 In the event that any Group does not appoint to any committee the number of Councillors they are entitled to appoint within 12 weeks of the vacancy arising, Council may at its next meeting appoint any other Member of the Council to fill such a vacancy or

vacancies.

#### Working Groups and Advisory Panels

- 27.4 The Council and its Committees may establish any working group and advisory panels as may be required from time to time, but each working group will have a limited time span as may be determined by Council or the parent Committee.
- 27.5 The membership, Chair and quorum of working groups will be determined by Council or the parent Committee, which membership will comprise Elected Members and, where appropriate, officers from this Council and/or representatives from community groups/partner agencies.
- 27.6 A working group is not a Committee or Sub-Committee of the Council and will not have any delegated powers to implement its findings but will prepare a report for consideration by Cabinet or the parent Committee.
- 27.7 Agendas and Reports for consideration at Working Groups will be issued by electronic means to all members no later than two Clear Working days prior to the start of the meeting.

#### Scheme of Delegation to Officers

- 27.8 Subject to Section 50G (2)(b) of the 1973 Act, the Council shall maintain a list specifying those powers of the authority which are exercisable from time to time by officers of the authority under the 1973 Act or any other enactment and this list will state the title of the officer by whom each of the powers so specified is for the time being so exercisable.

### **28 Proceedings of Committees and Sub-Committees**

28.1 The business of Committees or Sub-Committees will be conducted as follows: -

- i. The business of the Committee or Sub-Committee will be conducted in accordance with the provisions of Standing Orders and any statutory or regulatory provisions in respect of such business;
- ii. Such business will proceed primarily on the basis of reports submitted by Officers or referrals by Council, other Committees or other relevant bodies.
- iii. Notwithstanding the foregoing, Council may, if it considers it appropriate the proper conduct of the business of the Council, instruct a report on, or consider any matter as it is referred to in the remits of any Committee or Sub Committee. In relation to functions delegated to North Ayrshire Integration Joint Board, Council will not make decisions, but may make recommendation to the Board.
- iv. The Ordinary Meetings of Committees (excepting the North Ayrshire Integration Joint Board, the Ayrshire Shared Services Committee and Ayrshire Regional Economic Joint Committees and any sub-committees thereof) will commence at times as may be determined by the Council and will meet according to a timetable determined by the Council from time to time. Without prejudice to the foregoing, the Chair of a Committee or Sub-

Committee will have power where the circular calling the meeting has not been issued, to rearrange the date, time and place of a Committee or Sub-Committee in cases of urgency, subject to obtaining the agreement of the Council Leader and the Leader of the Opposition. The date, commencement time and timetable of meetings of North Ayrshire Integration Joint Board and any of its sub- committees will be determined by North Ayrshire Integration Joint Board. The date, commencement time and timetable of meetings of the Ayrshire Shared Services Committee, the Ayrshire Regional Economic Joint Committees and any sub-committees thereof will be determined by whichever of the Councils then holds the Chair.

- v. A Chair of a Committee or Sub-Committee may at any time give instructions for the calling of a special meeting, but the notice will state the special purpose for which it is called. Such meeting will be held at the time, date and venue as determined by the Chief Executive. An appropriate venue may include a meeting on a wholly remote basis by electronic means or in circumstances whereby some Members attend the Council Chambers and others take part via remote means.

28.2 The exercise of delegated authority by a Committee or Sub-Committee is subject to the following:

- i. The exercise of powers is discretionary, and a Committee or Sub-Committee may determine not to exercise its delegated powers.
- ii. The consideration of all Committee business which has not been completed before the meeting is brought to an end shall be postponed to the next meeting of the Committee, whether Ordinary or Special.
- iii. Committees and Sub-Committees shall appoint their own Chair or Vice-Chair if Council has failed to do so. In the absence of the Chair or Vice-Chair the Committee will be required to elect a member from those present to chair the meeting. The Convener of any Sub-Committee must be a member of the Parent Committee.
- iv. In the event that an issue arises which falls within the remit of more than one Committee, the Chairs of said Committees will determine which Committee shall deal with the issue.
- v. There will be no temporary substitution of Members of Committees and Sub- Committees unless specific provision is made for the temporary substitution of Members of a particular Committee or Sub-Committee within these Standing Orders or in any relevant Minute of Agreement, Constitution or similar document.

### 28.3 Planning Committee Call-in

- i. In terms of Section 43(6)A of the Town and Country Planning(Scotland) Act 1997, three or more Elected Members can refer an application which would otherwise be determined by an officer under the Council's Scheme of Delegation to Officers, for determination by the Planning Committee. Any such request must

be signed by three Elected Members and delivered to the Chief Executive, or submitted electronically, via an individual email to the Chief Executive from each of the three Elected Members in question. Such requisition must be received no later than 12 noon on the twenty first calendar day (all days inclusive) following validation of the application. Such requisition must state the reasons for the call-in, which must relate to the provisions of the Local Development Plan and any material planning considerations which are relevant to the application. The reasons will be shared with the applicant.

- ii. On receipt of such a call-in, the Chief Executive will consult with the Chair of the Planning Committee and if the Chief Executive is satisfied that the call-in complies with the terms of Standing Order 28.3.i, the application shall be referred to the Planning Committee for determination of the application. No Member of the Planning Committee who has signed a call-in request may take part in consideration of the call-in request.
- iii. At least one of the Members who has requested the call in will be asked to attend the Planning Committee to explain the request. The Committee may either agree to determine the application at a future committee or decide not to determine the application, leaving officers to determine the application under delegated powers.

## **29 Approval and Signing of Minutes**

- 29.1 Minutes of Meetings of Committees with delegated powers shall be submitted to the next meeting of that Committee for approval of their accuracy and thereafter signed by the Chair of that Committee. Subject to the provisions of 26.1, Officers may implement any decision made within the delegated powers of such Committees immediately after the meeting.
- 29.2 Minutes of Meetings of Committees, which do not have delegated powers, will be submitted to Council or Cabinet as appropriate for approval of the decisions contained therein and to the next meeting of that Committee for approval of their accuracy. Following approval of such minutes (excepting Cabinet, the decision of which cannot be implemented until the expiry of the periods mentioned in Standing Order 26) Officers will be able to implement any decisions contained within the Minutes.
- 29.3 Where Minutes are submitted for approval of their accuracy, there shall be no discussion of the Minutes, except upon their accuracy and any question on their accuracy shall be raised by amendment to the motion to approve the Minutes. The amendment to the Minutes will require to be intimated to the Chief Executive by 12 noon on the day preceding the meeting. The Provost will submit the Minutes for approval and in the event that an Amendment is proposed, a seconder for the motion to approve and the amendment will immediately be sought. There will be no discussion on the motion or the amendment and the matter to approve or amend will immediately be put to the vote.

## **30 Petitions and Deputations**

- 30.1 Every application for the reception of a deputation to the Planning or Licensing Committees or petition to the Audit and Scrutiny Committee must be in writing, and delivered, or e-mailed to the Chief Executive no later than 5.00 p.m. on the Tenth Clear Working Day prior to the meeting.

30.2 Procedures for receiving petitions and deputations shall be as set down in Appendix B to these Standing Orders. No petition or deputation shall be received by the Committee in relation to any regulatory or quasi-judicial function of the Council where the opportunity of a hearing or deputation has previously been afforded to any person. No late petition or deputation request shall be received except in accordance with Standing Order 10.8.

### **31 Contract Standing Orders and Financial Regulations**

31.1 The Council may make Contract Standing Orders and Financial Regulations for the regulation or making by it, or on its behalf of contracts and for the proper planning, execution and control of its financial affairs. Such Standing Orders and Regulations will form part of these Standing Orders and will be read with them along with any Scheme of Delegation to Officers made by the Council.

31.2 Contract Standing Orders and Financial Regulations made by the Council in terms of this Standing Order will apply to Committees, Members of the Council, Officers and agents of the Council as appropriate.

31.3 The Scheme of Administration, Scheme of Delegation, Financial Regulations and Contract Standing Orders will have the same standing as Standing Orders and can only be amended in the same manner as Standing Orders.

### **32 Ultimate Power of the Council**

32.1 Without prejudice to any decision taken by a Committee in exercise of delegated powers, the Council may at any time deal with any matter included in the terms of reference of a Committee even if no report from the Committee is before it.

### **33 Definitions**

33.1 In these Standing Orders the following words and phrases will have the following meanings respectively ascribed to them: -

- i. "Provost" or "Chair" will mean the person appointed to Chair the Council, Committee or Sub-Committee;
- ii. "Depute-Provost" or "Vice- Chair" will mean the person appointed to Chair the Council, Committee or Sub-Committee in the absence of the Provost or Chair;
- iii. "Cabinet Portfolio Holder" will mean the Member who has been given responsibility for a group of services. The postholder will be a Senior Councillor and will receive appropriate remuneration in terms of the Scheme of Allowances;
- iv. "Chief Executive" will mean the Head of Paid Service of the Council as defined in terms of the Local Government and Housing Act 1989 s4(1)(a) or such other person as may be nominated by him/her;
- v. The "Chief Financial Officer" will mean the proper officer so designated by the Council in terms of the Local Government (Scotland) Act 1973 s.95 or

such other qualified accountant as may be nominated by him/her;

- vi. "Clear Working Days" will unless otherwise specified, mean the whole 24-hour period of a day, Monday to Saturday inclusive, including public holidays.
- vii. The "Council" will mean North Ayrshire Council, being a Local Authority constituted under the Local Government Etc. (Scotland) Act 1994;
- viii. A "Decision of Council" will be deemed to have been made where any of the following circumstances occur: -
  - i. A motion or amendment in accordance with the provisions of these Standing Orders, has been passed by the necessary majority at Council Committee or Sub-Committee.
  - ii. The exercise by the appropriate officer of any power delegated to them either by reason of another Decision of Council or in terms of the Scheme of Delegation.
  - iii. The exercise by the Chief Executive of the discretion available to them.
  - iv. Such Decision of Council will be deemed to include any necessary actions required to give effect to such decision.
  - v. Where a Decision of Council is subsequently found to be incapable of implementation because of a defect or a new supervening factor, then subject to the confirmation of the Chief Executive upon advice taken, the Decision of Council may be given effect to with the removal of such defective element, or its replacement with a suitable and in all respect compatible element, provided always that the likely outcome of the resultant Decision of Council is materially the same or sufficiently similar to the original decision. In such circumstances the Chief Executive will be obliged to report such change to the next appropriate meeting of the Council, and any decision on such report will not require the suspension of Standing Orders.
- ix. 'Elected Members' and 'Member' will mean, except where the expression will otherwise so require, a Councillor of the Council only, as the word 'Councillor' is defined by reference to Local Government Etc. (Scotland) Act 1994 s5;
- x. 'Solicitor to the Council' will mean the Head of Democratic Services or such other legally qualified person as may be nominated by him/her;
- xi. 'Party' will mean any grouping of two or more Members, previously intimated to the Chief Executive;
- xii. 'Present and voting' or 'present and vote' shall mean Members casting an affirmative or negative vote. Members who abstain from voting are considered as not voting;

- xiii. The Interpretation Act 1978 applies to the interpretation of the Standing Orders as it applies to an Act. Any Act or other legislative provision referred to herein will include reference to any amendment, modification or re-enactment of such provision as may from time to time occur.
- xiv. In the event of any dispute or difference as to the interpretation of these Standing Orders and any other document the Standing Orders will prevail.
- xv. The '1973 Act' shall mean the Local Government (Scotland) Act 1973, as amended.
- xvi. The '2000 Act' shall mean The Ethical Standards in Public Life etc (Scotland) Act 2000.

**34** Emails from Elected Members to the Chief Executive in respect of Standing Orders 14.1, 15.1, 15.2, 26, 28.3 and 30 should be submitted using the Council allocated email address i.e. [MemberName]@north-ayrshire.gov.uk. Such emails will be accepted as having been signed by the Elected Member.



## Appendix A

### Local Government (Scotland) Act 1973

#### SCHEDULE 7A: DESCRIPTIONS OF EXEMPT INFORMATION

1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office holder, former office-holder or applicant to become an office-holder under, the authority.
2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.
3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.
4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.
5. Information relating to the adoption, care, fostering or education of any particular child or relating to the supervision or residence of any particular child in accordance with a supervision requirement made in respect of that child under the Social Work (Scotland) Act 1968.
6. Information relating to the financial or business affairs of any particular person (other than the authority).
7. Information relating to anything done or to be done in respect of any particular person for the purposes of any of the matters referred to in section 27(1) of the Social Work (Scotland) Act 1968 (providing reports on and supervision of certain persons).
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.
10. The identity of the authority (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services.
11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority.

12. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:-
  - i. any legal proceedings by or against the authority, or
  - ii. the determination of any matter affecting the authority,
  - iii. (Whether, in either case, proceedings have been commenced or are in contemplation).
13. Information which, if disclosed to the public, would reveal that the authority proposes:-
  - i. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - ii. to make an order or direction under any enactment.
14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
15. The identity of a protected informant.

## Appendix B

### NORTH AYRSHIRE COUNCIL GUIDANCE ON DEPUTATIONS AND PETITIONS

#### 1. Introduction

- 1.1 This guidance sets out the process to be followed by persons wishing to make a deputation or submit a petition to the Audit and Scrutiny, Planning, or Licensing Committees.

#### 2. Procedure

- 2.1 Every application for the reception of a deputation or petition must be in writing, duly signed and delivered or e-mailed to the Chief Executive no later than 5.00p.m. on the Tenth Clear Working Day prior to the meeting.
- 2.2 The application should give details of the matter to be raised. You should be able to demonstrate that you have taken steps to resolve the issues prior to submitting your application, including submission of a complaint under the Council's Complaints Procedure where relevant. Details of the services or officers approached, together with copies or summaries of the responses received should be submitted along with your application form. Where no covering letter has been submitted, officers will write to the initial signatory of the petition to request the supporting documentation, in the absence of which the Chair of the Audit and Scrutiny Committee may decline to accept the petition.
- 2.3 Petitions or deputations will only be received if they relate to the delivery of Council services or to services which are provided by the Council in conjunction with other partner organisations, or if they relate to decisions that the Council has taken or is about to take. Your petition must contain a minimum of 10 written signatures from different North Ayrshire households. E-petitions may be lodged in support, but not in substitution for the 10 written signatures. The petition should give details of the matter concerned. Again, you should be able to demonstrate that you have taken steps to resolve the issue of concern prior to submitting your petition.
- 2.4 A petition will not be competent in the following circumstances: -
- If it relates to a case that is or has been subject to legal or court proceedings, ombudsman complaints, industrial tribunals, appeals procedures;
  - If it requests the Council to do something outwith its powers;
  - If it discloses information which is protected by an interdict or court order;
  - If it reveals commercially sensitive or confidential information;
  - If it would cause personal distress or loss; and
  - If it relates to an individual's circumstances or an individual's grievance
  - If it relates to any regulatory or quasi-judicial function of the Council where the opportunity of a hearing or deputation has previously been afforded to any person.
  - The deputation or petition seeks to review an issue which is the same or substantially the same as a Decision of Council made within the previous six months;

- It relates to functions delegated to North Ayrshire Integration Joint Board; or
- The deputation or petition seeks to review an issue which has already been considered by the Audit and Scrutiny Committee in terms of 24 (Call-in of Cabinet Decisions)

2.5 If 10 or more letters are received on one specific issue, these will be treated in the same way as petitions. If the individual leading the letter writing campaign can be identified, that person will be treated as the principal petitioner and the same procedures will apply as for petitions generally.

### **3 Determination**

3.1 When an application for a deputation/petition is received the Chair of the Audit and Scrutiny Committee will be advised of the issues raised and will decide whether the matter should be dealt with at the next Committee meeting.

3.2 If your request for a deputation or to submit a petition is refused, the reasons for this will be notified to you.

3.3 If your application is approved, you will be invited to attend the Committee meeting. As many Members of your group as wish may attend the meeting, but the number of persons allowed to address the Committee will be limited to a maximum of 3. You will also be asked to identify the principal spokesperson beforehand.

3.4 If during a pandemic or public health emergency, the public are to be excluded from a meeting of a local authority whenever it is likely that, if members of the public were present, there would be a real and substantial risk to public health due to infection or contamination with coronavirus, then paragraphs 3.3 and 4 will not apply, and you will be invited to submit written submissions for the consideration of the Committee.

### **4 Addressing the Committee**

4.1 You should remain seated at all times during the meeting, until the spokespersons are invited to speak by the Chair.

4.2 You will be limited to ten minutes in total to present your case to the meeting. Once you have addressed the meeting, the Members present will be invited to put questions to you. Appropriate Members or officers of the Committee may also be invited to speak and to receive questions. If the officers are presenting a written report, you will be given a copy, if possible, in advance of the meeting.

4.3 The Committee will then take a decision on the matter before it, if appropriate, or if it relates to an item elsewhere on the agenda of the meeting may wait until they reach that item before taking a decision. Once you have heard the decision you are free to leave but are welcome to stay to listen to the rest of the meeting if you so wish.

4.4 If nobody addresses the Committee in support of the petition, the Committee will still consider the item, having regard to the papers on the agenda.

### **5 Deputations and Petitions Relating to Planning Applications**

5.1 The Council has approved separate procedures which apply to requests by objectors to planning applications who are seeking authority for a deputation to address the Planning Committee in support of their objections.

## Appendix C

### North Ayrshire Council

#### Procedure on Dealing with Requests to the Council from Outside Bodies to Support Resolutions and Motions

##### 1. Purpose

- 1.1 To advise on the procedure for handling requests to the Council from Outside Bodies to support resolutions or motions.

##### 2. Background

- 2.1 From time to time the Chief Executive, or the Leader of the Council, receives requests from Outside Bodies e.g. other local authorities, to support resolutions or motions passed by those bodies. These may relate to subjects of national or local importance and generally the aim is to mobilise national support for a particular position.

##### 3. Procedure

- 3.1 To ensure that such requests are handled in a consistent manner the following steps will be followed.
- 3.2 On receipt of such requests, Committee Services will take the following action: -
  - i. Acknowledge the request and advise the Outside Body that it will be circulated to Group Leaders for their attention. The Outside Body will also be advised that in terms of the procedure, no further action will be taken unless a motion in support is subsequently considered by the Council.
  - ii. Circulate the request by email to Group Leaders and Independent Members for their attention. It will be for such Members to decide whether they wish to support the resolution or motion passed by the Outside Body.
- 3.3 Any Member wishing to support the terms of the resolution or motion will be requested to submit a formal notice of motion (properly seconded) to the Chief Executive within the usual timescale for the receipt of such notices for the next ordinary meeting of the Council i.e. 2.00 p.m. on the Monday of the week preceding the Council meeting.
- 3.4 All motions will require to be seconded in the usual manner.
- 3.5 On receipt of such a motion, Committee Services will arrange for the motion to be added to the agenda for the next ordinary Council meeting in the usual manner.

The outcome of the Council's deliberation will be communicated to the Outside Body thereafter.

 <p>North Ayrshire Council Comhairle Siorrachd Àir a Tuath</p>	<b>Call In Request Form</b>
<p>We request in terms of paragraph 26.2 of the Standing Orders Relating to Meetings and Proceeding of the Council that the decision taken by the Cabinet be called in by the Audit and Scrutiny Committee.</p>	
<b>Names of Councillors Requesting Call In</b>	
1.	
2.	
3.	
<b>Details of the Decision Taken By The Cabinet (Please specify the Minute reference)</b>	
<b>Reasons for Call In (Please specify your reasons for requesting that the Audit and Scrutiny Committee call in the decision)</b>	
<b>Desired Outcome (Please specify your desired outcome)</b>	

**This form must be received by the Chief Executive's Office not later than 12 noon on the fourth Clear Working Day following, and not counting, the day on which the Cabinet Minute was issued.**

	Date	Time
Received by Chief Executive		
Received by Committee Services		
Acknowledged		

## Appendix E

### NORTH AYRSHIRE COUNCIL

#### Quick Guide to Dealing with Items of Business

1. Officer speaks to the terms of the report.
2. Questions by Members to Officers about their report.
3. The Administration move and second the motion. Provost asks if this is agreed. If it is, we move to the next item of business.
4. All Amendments are then moved and seconded.
5. Members can ask questions to the mover or seconder of a motion or amendment seeking clarity of the terms of the motion/amendment. This also gives Members the opportunity to ask if a mover of the motion or amendment is prepared to alter this to achieve agreement.
6. When the Provost is satisfied that there are no more amendments or questions (e.g. once the questions stop and the Provost receives a negative response to the question “are there any further amendments”) he or she will state “we are now in debate”.
7. Debate - At debate stage members are allowed up to 5 minutes each to make submissions. No new amendments or questions are allowed once the debate starts.
8. Summing up in reverse order. In other words, last amendment sums up finishing up with the motion.
9. Voting – The first vote is for the motion against the first amendment. The winner goes against the second amendment and so on.

Document Control Summary:-		
Location:	I:\Committee Services\Publications\01 Standing Orders	
Last Revised:	Revised By	Nature of Revision
May 2022	AC	Created for New Administration



## **NORTH AYRSHIRE COUNCIL**

**18 May 2022**

### **North Ayrshire Council**

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**Title:** **Scheme of Delegation to Officers**

**Purpose:** To approve the Scheme of Delegation to Officers, one of the key governance documents regulating the operation of the Council, its Committees and Officers and to note the appointment of Statutory officers.

**Recommendation:** That the Council agrees:

- (a) to approve, with immediate effect, the Scheme of Delegation to Officers, attached at Appendix 1; and
- (b) to note the appointments made to the Statutory posts.

---

### **1. Executive Summary**

1.1 This report seeks approval by Council of the Scheme of Delegation to Officers which regulate the operation of the Council, its Committees and Officers and invites the Council to note the appointments made to Statutory posts.

### **2. Background**

2.1 Audit Scotland in their report “Roles and working Relationships – Are you Getting it Right?” stressed the importance of having governance arrangements that are fit for purpose and up-to-date. They note that such documents are critical in clarifying roles, responsibilities and expected behaviour and should be reviewed regularly. Good governance arrangements lead to sound decision-making. While the key governance documents detailed in Section 1.1 were all fully reviewed in the lifetime of the previous Council, the opportunity has been taken to bring them up to date.

#### **Scheme of Delegation to Officers**

2.2 As powers are given directly to the Council, in turn it needs to decide which powers it will exercise through its committees, and which powers it will delegate to Officers. Officers can only exercise the powers which the Council gives them. The Scheme of Delegation to Officers lists the functions delegated to individual Directors/Executive Directors, the Head of Democratic Services, the Head of Finance and the Head of People and ICT Services. In turn, those officers can delegate these functions to other officers within their Services.

- 2.3 As previously, the Scheme of Delegation to Officers provides that any functions which are not otherwise reserved to Council or committee, will be dealt with by Officers. It also retains the core provision that delegated powers should not be exercised by Officers where any decision would represent a departure from Council policy or procedure or would be contrary to a standing instruction of Council (or committee), or would itself represent a significant development of policy or procedure. The only exception to this is in the case of urgency, where the Officer may, after consultation with the relevant Cabinet Member or Chair of the appropriate committee, exercise delegated powers. Should such powers be exercised in urgent circumstances, a report will be submitted to the next appropriate committee for noting.
- 2.4 As recommended by Audit Scotland, the Scheme of Delegation also details the remit of the four Statutory Officers of the Council. These posts, and the officers appointed to them, are:
- The Head of Paid Service – Craig Hatton, Chief Executive
  - The Monitoring Officer – Aileen Craig, Head of Democratic Services
  - The Proper Officer for Financial Arrangements (Chief Financial or Section 95 Officer) – Mark Boyd, Head of Finance; and
  - The Chief Social Work Officer – Scott Hunter
- 2.5 The main revisions which have been made to the previous Scheme of Delegation to Officers are:
- Head of Service (Democratic) – inclusion of provision to introduce and implement the forthcoming licensing system for short-term lets.
  - Reference to the post of Head of Service (Recovery and Renewal) and associated authority has been removed following deletion of the post.
  - Head of Service (Finance) - the functions previously undertaken by the Head of Service (Recovery and Renewal) have been remitted to the Head of Service (Finance).
  - Executive Director (Communities and Education).
    - Education - The previous Scheme delegated exercise of general statutory powers in relation to provision of education by way of general reference. The current proposals expand on the general statutory references by including more detail on some of the specific powers being exercised.
    - Communities – Standard functions exercised through general delegated authority have been listed for clarification including specific reference to participatory democracy, tackling child poverty, developing and supporting community and locality hubs, the North Ayrshire Food System and developing a whole systems approach to inclusion and working with care experienced children, young people and their families.
  - Executive Director (Place) - general repositioning of powers to reflect the new structure within the Directorate. Some standard functions exercised through general delegated authority have been listed for clarification.
  - General rewording, updating of statutory references, formatting of the document and positioning of delegated authority remits within Directorates and Services.

### **3. Proposals**

3.1 Council is invited:

- (a) to approve, with immediate effect, the Scheme of Delegation to Officers, attached at Appendix 1; and
- (b) to note the appointments made to the Statutory posts.

### **4. Implications/Socio-economic Duty**

#### **Financial**

4.1 Approval of the key governance documents is an essential component of the Council's financial governance arrangements.

#### **Human Resources**

4.2 None arising from the recommendations of this report.

#### **Legal**

4.3 Approval of the key governance documents is an essential component of the Council's legal and administrative arrangements.

#### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

#### **Climate Change and Carbon**

4.5 None arising from the recommendations of this report.

#### **Key Priorities**

4.6 Clear, transparent governance arrangements promote good decision making. In turn, this supports the achievement of the Council's key priorities.

#### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

### **5. Consultation**

5.1 Executive Directors and relevant Officers have been consulted as required.

Craig Hatton  
Chief Executive

For further information please contact **Aileen Craig, Head of Democratic Services**, on **01294 324125**.

**Background Papers**

None



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

## Scheme of Delegation to Officers

Published by Committee Services  
North Ayrshire Council  
Cunninghame House, Irvine KA12 8EE

Classification: Public

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## **Section 1 – Introduction**

This Scheme of Delegation was approved by North Ayrshire Council on 16 December 2020 and took effect on 1 January 2021 in terms of section 56 of the Local Government (Scotland) Act 1973 and to meet the requirements of Section 50G (2) of the Local Government (Scotland) Act 1973. The scheme contains details of those functions both statutory and non-statutory which the Council has chosen to delegate to Officers.

This Scheme of Delegation needs to be read and used alongside the Council's Standing Orders relating to Contracts, Financial Regulations, Scheme of Administration, and Standing Orders relating to Meetings which together make up the wider framework of governance within the Council. North Ayrshire Council's Code of Governance is based upon the principles of:

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

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

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

## **Section 2 – Core Principles**

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

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

### **2.1 Delegations to Officers**

The undernoted powers are delegated to Officers of the Council: -

- i) The Chief Executive or appropriate Chief Officer will have delegated responsibility for all matters in respect of the operation, development and implementation of policy for the service area assigned to them unless specifically reserved to the Council or other Committees or contrary to the principles listed in 2.2 and 2.3 below, together with such Statutory Duties as may have been specifically and personally assigned to them.
- ii) The Chief Executive and/or the appropriate Chief Officer will be responsible for the appointment of all posts below the level of Chief Officer.
- iii) Such delegations are at all times to be exercised in accordance with the relevant law, and the Council's Standing Orders relating to Contracts, Financial Regulations, Scheme of Administration and Standing Orders relating to Meetings and other relevant policies and procedures.
- iv) Where clarification is required, the Chief Executive will determine which matters are operational or otherwise.

### **2.2 Powers Reserved to Council**

#### **General Issues**

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

## **Specific powers reserved for Council or Committee**

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

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

### **Statutory Reservations**

- (a) To change the name of the Council in terms of Section 23 of the Local Government (Scotland) Act 1973.
- (b) To appoint the Convener and Depute Convener of the Council and to decide on their titles, in terms of Section 4 of the Local Government etc. (Scotland) Act 1994.
- (c) To appoint Committees in terms of Section 57 of the Local Government (Scotland) Act 1973.
- (d) To promote and oppose private legislation in terms of Section 82 of the Local Government (Scotland) Act 1973.
- (e) To set Council Tax in terms of Section 56(6) of the Local Government (Scotland) Act 1973.
- (f) To receive the certified abstract of the Council's annual accounts, in terms of the Local Authority Accounts (Scotland) Amendment Regulations 1988 and 1997
- (g) The authority's functions with respect to the borrowing of money.
- (h) To consider reports by the Head of Paid Service made under Section 4 of the Local Government and Housing Act 1989.
- (i) To consider reports by the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- (j) To decide whether or not to divide the Council's area into licensing divisions and to appoint members to the Licensing Board and Local Licensing Forum in terms of the Licensing (Scotland) Act 2005.
- (k) Approval of the Annual Treasury and Investment Strategy relating to the borrowing of money by the Council and treasury management.
- (l) The approval of reasons for the non-attendance of Members at meetings in accordance with Section 35 of the Local Government (Scotland) Act 1973.
- (m) The approval of the Scheme of Member's Allowances and consideration of the entitlement of Members to such allowances. Such allowances will be paid in line with the Local Government (Scotland) Act 2004 (Remuneration) Regulations 2007 and the Local Government (Allowances and Expenses) (Scotland) Regulations 2007 as amended.

- (n) Any other function or remit which is, in terms of statute or other legal requirement, bound to be undertaken by the Council itself.

### **Non-Statutory Reservations**

- (a) To establish such Committees, Sub-Committees, Joint Committees and Joint Boards as may be considered appropriate to conduct business and to appoint and remove Conveners, Depute Conveners and Members of Committees and Outside Bodies.
- (b) The raising of money by Rates, Council Tax or Loan.
- (c) The approval annually of the General Services Revenue Budget;
- (d) The approval of the General Services Capital Plan.
- (e) The approval annually of the Housing Revenue and Housing Capital Budgets and the setting of the level of rents for Council houses held in the Housing Revenue Account.
- (f) The incurring of any net new expenditure not provided for in the estimate of capital or revenue expenditure.
- (g) Any amendment of the Scheme of Administration regulating the constitution, membership, functions and powers of Committees of the Council.
- (h) Amendment of the Standing Orders regulating meetings proceedings and business of the Council and Committees and contracts.
- (i) Any amendment of the Scheme of Delegation detailing those functions delegated by the Council to its Officers.
- (j) The making of an order for the compulsory acquisition of any land or buildings.
- (k) The appointment of any Chief Officer (other than an Interim Appointment) or the dismissal of the Chief Executive, Monitoring Officer, Chief Social Work Officer, Chief Planning Officer, Chief Education Officer or S95 Financial Officer. The voluntary redundancy or early retirement of any Chief Officer which is not in compliance with the Council policies on voluntary early retirement or redundancy
- (l) All matters relating to election of Councillors where these are not the responsibility of the Returning or Counting Officer.
- (m) To consider matters relating to the fixing or amendment of the Council's geographic boundaries, its electoral boundaries and wards, or matters relating to the fixing or amendment of the boundaries of the parliamentary constituencies lying wholly or partly within North Ayrshire.
- (n) The decision to co-operate or combine with other Local Authorities in the provision of services other than by way of collaborative agreement.
- (o) The approval or amendment of the scheme for Community Councils.

- (p) Consideration of Provisional Orders or Private Bills affecting the interests of the Council.
- (q) The grant of the freedom of North Ayrshire.
- (r) To fix and amend a programme of Council and Committee meetings.
- (s) Any alteration or replacement of the North Ayrshire Integration Scheme;
- (t) Specific functions which are reserved to Council, Committees, Joint Committees or Joint Boards as detailed in the Scheme of Administration
- (u) To deal with matters reserved to the Council by Standing Orders, Financial Regulations and other Schemes approved by the Council.

### 2.3 General Restrictions on Exercise of Delegated Powers by Officers

- (a) If any decision proposed under delegated powers might lead to a budget being exceeded, the Officer must consult with both the relevant Cabinet Portfolio Holder or Convener of the appropriate Committee, as appropriate, and the Chief Executive or the Head of Service (Finance), before exercising the delegated power.
- (b)(i) Chief Officers must ensure that the relevant Cabinet Portfolio Holder, is, where appropriate, consulted on matters of a controversial nature. Where appropriate, such matters should be referred to Council or the appropriate Committee for decision.
- (b)(ii) In particular, and without prejudice to the foregoing, Chief Officers will exercise particular care in determining whether a matter is to be regarded as controversial in the following circumstances. The Chief Executive will be the final arbiter of whether a matter is controversial: -
  - Where determination of the issue may involve a decision contrary to local or national policy, or the determination may lead to a breach of a relevant Code of Guidance.
  - Where it is proposed that any issue be determined contrary to significant objections or the strong recommendation of Statutory Consultees.
  - The Officer proposes to determine the matter, or act in a manner, contrary to the recommendation of other officers whom he/she is obliged to, or has chosen to, consult with.
  - There are perceived public safety or significant public policy issues dependent on the determination (save in the case of urgency as aforesaid).
  - Standing Orders, National or International regulation requires determination otherwise.
  - There are questions of legality or financial advisability/probity involved.

### 2.4 New Legislation and Updating of Powers

The Scheme may be updated by the appropriate Executive Director notifying the Chief Executive and the Head of Service (Democratic Services) in writing in advance of the specific power they wish to exercise and if this is not in conflict with, or contradictory to any statutory provision, the Council's Standing Orders, Council Policy or delegation to another officer, effect may be given to such extension immediately and this Scheme will be amended accordingly

## 2.5 Sub-Delegation

North Ayrshire Council hereby authorises any Officer with specific delegated powers, duties or responsibilities referred to within this scheme to delegate further any of these powers etc. to other appropriate Officers within their service. Any Officer using delegated powers will be fully accountable to the Council for his/her actions.

## 2.6 Interpretation

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

- “Act” means the Local Government (Scotland) Act 1973;
- “1994 Act” means the Local Government Etc. (Scotland) Act 1994;
- “2003 Act” means the Local Government in Scotland Act 2003;
- “2014 Act” means the Public Bodies (Joint Working((Scotland) Act 2014;
- “Council” means the North Ayrshire Council;
- “Chief Officer” means the Chief Executive, the Executive Directors, the Director of Growth and Investment, the Director of the Health and Social Care Partnership and Heads of Service all as appointed by the Council.

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

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

## 2.7 Alteration of Scheme

Subject to the provisions of the Act the Council shall be entitled to amend, vary or revoke the scheme from time to time. The financial limits as set by the terms of this scheme may be reviewed on 1<sup>st</sup> April each year.

## 2.8 Consultation with Chief Executive

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

## 2.9 Absence of Executive Director

The Chief Executive is authorised to exercise every power delegated to Executive Directors and Officers, whether in their absence or otherwise except where (a) part of a statutory function delegated to that specific Director or Officer or (b) the power derives from a function delegated by the Council to North Ayrshire Integration Joint Board.

### **3. DELEGATIONS TO OFFICERS - GENERAL PROVISIONS**

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

- 3.1 All powers necessary for the general management of the departments or services for which they are responsible including, but not limited to, the power to: -
  - 3.1.1 Appoint employees in accordance with Council policy and Standing Orders;
  - 3.1.2 Authorise special leave for employees in accordance with the provisions of the Council's Scheme of Special Leave;
  - 3.1.3 In consultation with the Head of Service (People and ICT), grant leave of absence with salary to enable employees to undertake approved part-time courses;
  - 3.1.4 Authorise employees' attendance at conferences/seminars and training courses for all employees;
  - 3.1.5 Authorise departmental expenditure up to limits permitted in the Standing Orders, on such items as have been allowed for in the appropriate capital and revenue budgets.
- 32 To authorise employees to undertake functions delegated to the Executive Director/Director or Head of Service as may be deemed appropriate and expedient, provided such employees are suitably qualified.
- 33 To sign and issue the necessary authorisation to Officers of the Council to exercise statutory powers including where appropriate the rights to enter land and premises in connection with the discharge of their duties and any identity cards so required by the Council.
- 34 All such other powers as delegated by the Council, a Committee, a Sub- Committee, the Council's Standing Orders and Financial Regulations.
- 35 To authorise and pay for the attendance of individual Members at specific conferences, seminars, etc.
- 36 To authorise and pay for the attendance of individual employees at training or conferences and to authorise and reimburse the professional membership fees of individual employees
- 37 To appoint or make recommendations as to the employment of consultants or specialists in accordance with any decision taken by the Council.
- 38 To manage and monitor the performance of the services which are under their responsibility.
- 39 To assist in the preparation of the Council's General Services Revenue Budget and Capital Programme.

- 3.10 To take such measures as may be required in emergency situations, subject to advising the Chief Executive as soon as possible thereafter on any items for which Committee approval would normally be necessary. This includes any Contract for the execution of works which are urgently required for the prevention of damage to life or property.
- 3.11 To enter into contracts for the supply of goods and materials, the execution of works and the provision of services where there is adequate provision in the estimates and in accordance with the Standing Orders for Contracts or the contract is let in terms of a framework agreement to which the Council is a party.
- 3.12 To sell surplus stores, plant, furniture and equipment, including any IT equipment, for the best price obtainable and write off any such stores, plant, furniture and equipment which have become unfit for use and are un-saleable, subject to the Standing Orders Relating to Contracts and any relevant Council policies.
- 3.13 To deal with, and in appropriate circumstances, to approve applications from employees for reimbursement of reasonable legal expenses, in part or in whole, incurred in defending any actions raised against them personally, providing they are acting: -
- (a) Within the course of their employment;
  - (b) In accordance with Council procedures;
  - (c) In good faith.
- 3.14 To respond to consultation papers unless the response recommends a departure or significant development of Council policy or procedure or is contrary to a standing instruction of Council or Committee.
- 3.15 To amend the organisational structures of their Services including the number and designation of posts subject to the following conditions:
- (a) The appropriate portfolio holder(s) has(ve) been consulted if changes are significant;
  - (b) The costs of the amendments are within the existing revenue budget and this is confirmed by the Head of Service (Finance);
  - (c) The Head of Service (People and ICT) approves the grading, conditions of service and designation of posts.
- 3.16 In accordance with the Council's approved Disciplinary and Incapability and Wellbeing @ Work (Supporting Attendance Policy) , to take disciplinary action including dismissal, as appropriate in respect of employees in their relevant Service;
- 3.17 In accordance with the Council's approved policies as may vary from time to time, to approve compliant applications for voluntary early retirement, redundancy or early release subject to the approval of the Head of Service (People and ICT) and the Section 95 Officer.
- 3.18 Action virement within the overall revenue budgets for their Services in accordance with the Financial Regulations and Codes of Financial Practice subject to confirmation by the Head of Service (Finance) or representative.

- 3.19 To apply for and accept grants or external funding to support the agreed strategies, policies or plans of the Council, subject to budget being available for any required match-funding.
- 3.20 During a pandemic or other public health emergency when the Appeals Committee is unable to meet, the Head of Service (People & ICT) and any Chief Officer may deal with all appeals which would otherwise be heard by the Appeals Committee. This is subject to such appeals being determined by a senior officer who had no prior involvement in the case. Power is given to determine such appeals by written submissions, providing all the rules of natural justice relating to fair hearings are complied with.

## DELEGATIONS TO OFFICERS - SPECIFIC PROVISIONS

### 4. Chief Executive

The Chief Executive leads the Executive Leadership Team and has overall responsibility for the following:-

- Strategic management of Council services;
- Leadership of Council Employees;
- Strategy and Policy Development;
- Leading Improvement and Organisational Change.

The following specific functions of the Council are delegated to the Chief Executive:-

1. To act as Head of Paid Service in terms of Section 4 of the Local Government and Housing Act 1989. The duties of the Head of Paid Service are detailed in Section 12A.
2. To act as the principal policy adviser to the Council on matters of general policy and to assist Members to formulate clear objectives and affordable programmes having regard to changing political priorities, statutory and financial requirements and community needs and expectations.
3. To ensure that a corporate approach to the management and execution of the Council's affairs is maintained and that advice to the Council is given on a co-ordinated basis.
4. To lead the Executive Leadership and Emergency Management Teams.
5. To monitor the performance of all Chief Officers.
6. To take such action as may be required to ensure that the correct significance is given by the Council's employees to the achievement of the overall policy objectives of the Council.
7. To give clear direction and ensure the visibility of the office of Chief Executive as the central focus for leading and co-ordinating the Council's employees.
8. To advise on staffing requirements.
9. Subject to the provisions of Council policies and procedures, to determine the organisation, appointment and proper management of the Council's employees.
10. In consultation with the Head of Service (People and ICT), to exercise all discretions available to the Council in terms of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008, the Local Government Benefits, Membership and Contributions) (Scotland) Regulations 2009, the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 and the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998.

11. To ensure that effective and equitable employment policies are developed and implemented throughout all services of the Council in the interests of the authority and its employees.
12. To maintain a list of politically restricted posts in terms of the Local Government and Housing Act 1989;
13. To authorise the implementation of national and local agreements relating to pay and conditions of service of employees or Councillors in consultation with the Head of Service (People and ICT)
14. To give direction on the applicability of the scheme and where appropriate that any Officer shall not exercise a delegated function; except where (a) part of a statutory function delegated to that Director or officer or (b) the power derives from a function delegated by the Council to North Ayrshire Integration Joint Board.
15. To consider and deal with any urgent issues, whether arising during a recess period or otherwise, subject to reporting back to the Cabinet or the appropriate Committee at the first available opportunity. This power is to be exercised in consultation with the relevant Chief Officer and the relevant Portfolio Holder and Committee Chair.
16. During a pandemic or other public health emergency when Council is unable to meet, and in consultation with all Group Leaders, and an Independent Member nominated by the Independent Members, and the Monitoring Officer, and if required to enable effective decision making or otherwise during the emergency, to amend the Standing Orders for Meetings, the Scheme of Administration, the Scheme of Delegation to Officers, the Standing Orders for Contracts or the Financial Regulations as is required to meet the circumstance arising.
17. To deal, in consultation with the Provost of the Council, with applications for the patronage of the Council, the use of the Council's Coat of Arms subject to the provisions of Lord Lyon King of Arms and for the use of municipal buildings;
18. To act as the Proper Officer for the following purposes of the Act:
19. Section 33A Declaration of Acceptance of Office as a Councillor;
20. Section 34 – Receipt of resignations of Councillors;
21. Sections 50B, C, D & F – Access to information;
22. Section 194(1) – Execution of deeds;
23. Section 50(D) of the Local Government (Access to Information) Act 1985 - "Listing of background papers for a report to Members".
24. To undertake the statutory responsibilities of Returning and Counting Officer in respect of Council and Parliamentary elections, referenda and ballots for Business Improvement Districts.

25. Where urgent, to change the location of a Polling Place and to make any ancillary changes to the Council's Polling Scheme which are required to facilitate this.
26. In an emergency to instruct executive action and incur expenditure on a report from the appropriate Executive Director on any matter, after consultation with the Provost/Leader of the Council as appropriate.
27. To devise, alter and issue, as required, job descriptions in respect of Chief Officers and other officers in accordance with Council duties and functions.
28. To exercise every power delegated to Executive Directors or Officers except where (a) part of a statutory function delegated to that Director or Officer or (b) the power derives from a function delegated by the Council to North Ayrshire Integration Joint Board.
29. To appoint in the absence of the Chief Executive an Acting Depute Chief Executive and Acting Head of Paid Service to cover periods of absence. When the Chief Executive is absent the Acting Chief Executive and Head of Paid Service will have all the delegated authority of the Chief Executive.
30. To appoint a Chief Officer on an interim basis.
31. To refer matters to the Police, in terms of the Council's defalcation procedure.
32. To act as Authorising Officer under the Regulation of Investigatory Powers (Scotland) Act 2000 for all types of authorisation, including the authorisation of a person under age 18 to act as a covert human intelligence source. To appoint other Officers to act as Authorising Officers for all such functions except the authorisation of a person under age 18 to act as a covert human intelligence source.
33. All powers ancillary to or reasonably necessary for the proper performance of the Chief Executive's general responsibilities.
34. To terminate on behalf of the Council any contract which the Council is entitled to terminate under appropriate conditions of contract where, after consultation with the appropriate Chief Officer, the Chief Executive is satisfied that it is in the interests of the Council to do so.
35. To support and manage the Director of the Health and Social Care Partnership/Chief Officer of the Integration Joint Board in the exercise of his or her functions.

## 5. Head of Service (Democratic Services)

The Head of Service (Democratic Services) has overall responsibility for the following services:-

- **Legal and Licensing Services**
- **Democratic Services** including Committee and Member Services, Policy, Performance and Elections, Health Improvement and Equalities, and Council Officers.
- **Communications**, both internal and external
- **Civil Contingencies**
- **Information Governance**

The Head of Service (Democratic Services) is also appointed to the following positions and has the following responsibilities: -

1. To act as the Council's Monitoring Officer in terms of Section 5 of the Local Government Housing Act 1989. The duties of the Monitoring Officer are detailed in Section 12B.
2. To act as "Proper Officer" and to appoint and designate other Officers of the Council "Proper Officers" for the purposes of relevant section of the Local Government (Scotland) Act 1973 in respect of the production of reports; the listing of background papers; the retention of documents, receipt of notices of any legal proceeding served on the Council and for the receipt of any notice, order or any other document required or authorised by any Act to be sent, delivered or served to or upon the Council or to the Proper Officer and report for the prescribed period and other related matters.
3. To act as "Proper Officer" and to appoint and designate other Officers of the Council as Proper Officers for the purpose of Section 193 and 194 of the Local Government (Scotland) Act 1973 and the Requirements of Writing (Scotland) Act 1995, to sign all deeds and other documents which require to be signed or sealed and to execute, on behalf of the Council, such other documents as may be necessary.
4. To act as "Authorised Officer" together with such members of his/her staff designated by him/her in terms of the Civic Government (Scotland) Act 1982 to grant non-contentious applications for licenses in terms of the Civic Government (Scotland) Act 1982 and to be responsible for the administration and control of all relevant licenses in respect thereof and to issue all notices of suspension or revocation of same as may be necessary in connection therewith.
5. To act as Senior Responsible Officer in connection with authorisations for covert surveillance permitted under Section 6 and 7 of the Regulation of Investigatory Powers (Scotland) Act 2000 and to maintain a register of use of such.
6. Receipt of Members' acceptance of office and resignation in terms of the Act.
7. Maintenance of the Register of Interests in terms of the Ethical Standards in Public

Life etc. (Scotland) Act 2000.

8. Undertake amendment of the Scheme of Delegation and Scheme of Administration as required to take account of new or amended legislation, Council policies and decisions etc.
9. To act as Single Point of Contact (SPOC) with Police and to lead the coordination of the Council's response to the Protect and Prepare strands of the CONTEST counter-terrorism strategy

### **Legal Services**

10. To engage Counsel or external legal firms as may be appropriate in connection with the Council's legal business and to appoint Parliamentary agents as and when he/she may consider it necessary.
11. To settle without reference to the Council or its Sub-Committees, claims arising in terms of statute in respect of compensation following compulsory or voluntary acquisition or other statutory process provided all the statutory requirements have been met.
12. To issue or have issued by other Officers, Statutory Notices on behalf of the Council.
13. Institute and defend proceedings on behalf of the Council.
14. Negotiate and agree extra judicial settlements in line with budgetary provisions and to withdraw from legal proceedings, including proceedings before any court, tribunal, enquiry, regulatory body etc.
15. In consultation with the relevant Executive Director to settle claims and legal actions against the Council of whatever nature not otherwise covered by the Council's insurance arrangements (and including without prejudice the foregoing generality planning appeals, employment tribunals and land tribunals) up to a maximum of £100,000 per individual claim (and to maximum of £500,000 in cases of urgency subject to consultation with the appropriate Cabinet Portfolio holder and approval by the Chief Executive) and in addition to agree appropriate fees and expenses in connection with those settlements.
16. To settle claims arising in terms of the Land Compensation (Scotland) Act 1973 in respect of home loss payments following compulsory acquisitions and also to settle any discretionary payments arising from acquisitions by voluntary agreement provided that the statutory requirements have been met.
17. In consultation with the relevant Executive Director, to authorise ex-gratia payments up to a maximum of £5,000 relative to recommendations by the Scottish Public Services Ombudsman.
18. Custody of all titles and standard securities in the Council's favour.
19. To implement reports from the Council's Valuer with regard to leasing of property, rent reviews and acquisition or disposal of land.

20. To investigate complaints in terms of the Council's whistleblowing procedures.
21. To have access at any time to any Council premises, offices or premises of contractors for the purposes of inspecting all documents and interviewing staff (either employed or contracted) in pursuit of the examination, verification or inspection of any system operated by the Council or any department thereof and to require the production of any information in whatever form including disclosure under the Data Protection Act and to implement changes arising therefrom.
22. Undertake any acquisition, disposal, lease etc. of property or land on the basis of terms recommended by the Executive Director (Place) subject to compliance with the terms of the Council's Scheme of Administration and Standing Orders relating to Contracts.
23. Acquire former Council houses or properties within Housing Action or Regeneration Areas upon terms agreed by the District Valuer, or at the Home Report Valuation.
24. Issue Offers of Notices of Refusal and pursue recovery of discount under the Right to Buy provisions of the Housing Acts.
25. Authorise the amount of Home Loss Payment and Disturbance Allowance in respect of eligible properties, on terms recommended by the District Valuer.
26. Pursue recovery of discount under the Right to Buy Provisions of the Housing Acts.
27. Set and revise periodically all fees for legal services.
28. Formation, acquisition and dissolution of companies, whether limited by guarantee or shares, Scottish Charitable Incorporated Organisation, Trusts, Partnerships or Limited Liability Partnerships or other legal body as required. Provided that this shall not include authority to form an offshore company for reasons of tax efficiency or avoidance.

### **Licensing Services**

29. To make suitable arrangements for the appointment of a Clerk and Depute Clerk(s) and for the provision of support to North Ayrshire Licensing Board in terms of the Licensing (Scotland) Act 2005.
30. To exercise licensing or registration functions of the Council in terms of the following legislation and in conformity with Council or Licensing Board policies: -
  - Performing Animals (Regulation) Act 1925
  - Pet Animals Act 1951
  - Caravan Sites and Control of Development Act 1960
  - Animal Boarding Establishments Act 1963
  - Riding Establishments Acts 1964 and 1970
  - Theatres Act 1968
  - Breeding of Dogs Act 1973
  - Dangerous Wild Animals Act 1976

- Zoo Licensing Act 1981
- Civic Government (Scotland) Act 1982
- Cinemas Act 1985
- Breeding and Sale of Dogs (Welfare) Act 1999
- Antisocial Behaviour etc. (Scotland) Act 2004, Part 8 (Landlord Registration)
- The Fireworks (Scotland) Regulations 2004
- Housing (Scotland) Act 2006, Part 5 (HMO Licensing)
- Animal Health and Welfare (Scotland) Act 2006
- The Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009.
- Pet Animals Act 1951
- Riding Establishments Acts 1964 to 70
- Zoo Licensing Act 1981
- The Licensing of Relevant Permanent Sites (Scotland) Regulations 2016
- The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32.

31. To Grant an Application for any Licence where:-

- (a) the Applicant has no more than two Minor Penalties;
- (b) there are no objections or adverse representations; and
- (c) the officer is not aware of any possible grounds for refusal (e.g. 1982 Act, Schedule 1, Paragraph 5(3)).

32. To Grant an Application for the Renewal of any Licence where:

- (a) the Applicant has no more than two Minor Penalties in the period between the previous decision to Grant or Renew the Licence etc. and the receipt by the Council of the Renewal Application; and
- (b) There are no objections or adverse representations; and
- (c) The Officer is not aware of any possible grounds for refusal (e.g. 1982 Act, Schedule 1, Paragraph 5(3)).

33. To determine all questions arising under the Licensing Acts, and to exercise all the functions of the Local Authority under those Acts, except decisions to refuse an Application for the Grant or Renewal, or (except where delegated) suspension of a Licence.

34. To carry out all the Council's functions, and to exercise all the Council's powers, as Licensing Authority in relation to Civic Government (Scotland) Act 1982, Section 19 (Taxi Stances), and in particular the powers to: -

- (a) appoint a Stance (Section 19(1));
- (b) Vary the number of Taxis permitted at a Stance (Section 19(3));
- (c) alter the position of a Stance (Section 19(3));
- (d) revoke the appointment of a Stance (Section 19(4));
- (e) erect and illuminate signs indicating the limits of Taxi Stances (Section 19(2)(a)); and
- (f) cause lines or marks to be made on roads indicating the limits of Taxi Stances (Section 19(2)(b)).

35. Section 84 Antisocial Behaviour (Scotland) Act 2004: To Grant an Application for Registration of a Landlord or Agent if:-
- (a) there are no more than two Minor Penalties;
  - (b) in the opinion of the Officer none of the considerations described in Section 85 (factors relevant to the decision whether or not a person is a 'fit and proper' person) exist; and
  - (c) there are no objections or adverse representations.
36. Section 84 Antisocial Behaviour (Scotland) Act 2004: to Refuse an Application for Registration where the Applicant has failed:-
- (a) to satisfy the Officer that he is a 'fit and proper' person,
  - (b) to respond to reasonable inquiries within 14 days after the date on which the Council received the Application or notice of the Application via the Scottish Government website.
37. Section 88(3) Antisocial Behaviour (Scotland) Act 2004: To make a determination that an Agent or proposed Agent is a 'fit and proper person' to act for a Registered Person if:-
- (a) there are no more than two Minor Penalties, and
  - (b) in the opinion of the Officer none of the considerations described in Section 85 (factors relevant to the decision whether or not a person is a 'fit and proper' person) exist.
38. Where it appears to the Officer that any offence under the Act is being or may have been committed, to inform the Procurator Fiscal or Police.
39. Section 94 Antisocial Behaviour (Scotland) Act 2004: to serve a Notice (commonly called a 'Rent Penalty Notice' (RPN)) where: -
- (a) it appears to the Officer that the conditions specified in Sections 94(2) (a) to (c) (the conditions for serving an RPN) are satisfied, and
  - (b) where the Council has written to the relevant person inviting him to apply for Registration and 14 days have elapsed from the date of that letter without either:
    - (i) the relevant person having made an Application for Registration, or
    - (ii) the Officer being satisfied that the relevant person does not require to be registered, because either:
      - (1) he does not fall within the definition in Section 1(8) (a person who is none of: a Local Authority, a registered social landlord, or Scottish Homes);
      - (2) he is entitled to one of the exemptions in Section 1(6) (as extended by Regulations); or
      - (3) the house is either unoccupied or is occupied by a person who is a member of the family of the relevant person (and is therefore not an "unconnected person").

40. Section 95 Antisocial Behaviour (Scotland) Act 2004: To Revoke a 'Rent Penalty Notice' where it appears to the Officer that the conditions specified in Sections 94(2) (the conditions for serving an RPN) were not satisfied when the Notice was served or are not or are no longer satisfied.
41. To amend the Register where appropriate (for example, under Section 88(8) Antisocial Behaviour (Scotland) Act 2004, if the Council determines that a proposed Agent is not 'fit and proper', the Council is obliged to remove the Registered Person (the Landlord) from the Register).
42. To determine all questions arising under the 2004 Act, and to exercise all the functions of the Local Authority under the 2004 Act, except:
  - (a) Section 84: To refuse an Application for entry to the Register, or for renewal or amendment of a Registration;
  - (b) Section 88(3): To make a determination that an Agent is not a 'fit and proper person' to act for a Registered Person;
  - (c) Section 89: To remove the Registration of a person.
43. To refer the case to the Committee for consideration of the exercise of those reserved powers where in the opinion of the Officer any of the considerations described in Section 85 Antisocial Behaviour (Scotland) Act 2004 (factors relevant to the decision whether or not a person is a 'fit and proper' person) may exist.
44. To exchange information with other Departments of the Council and external agencies relating to:-
  - (a) the operation of the Antisocial Behaviour (Scotland) Act 2004 and any register or records held by the Council for the purpose of administering the Landlord Registration Scheme;
  - (b) the conduct of landlords, agents and occupiers in relation to housing law and anti-social behaviour;
  - (c) the payment of Benefit to any of those persons;
  - (d) convictions and judgments affecting any of those persons.
45. To request any Applicant or Registered Person (including an Agent), to supply documents or information (e.g. a Disclosure Scotland Certificate or a document from a Court or Tribunal evidencing a determination) so that the Officer might determine whether or not to exercise any powers conferred in this Scheme of Delegation.
46. Section 97A (Power to obtain information) Antisocial Behaviour (Scotland) Act 2004: To serve a notice requiring the owner, occupier or agent to state: -
  - (a) confirmation of the nature of that person's interest in the house;
  - (b) the name and address of any other owner, occupier or agent (and information about any relationship between them);
  - (c) such other information relating to the house or person which is reasonably requested.
47. To exercise the delegations in Part 3 of the Housing (Scotland) Act 2006.

48. Section 129A Housing (Scotland) Act 2006: To refuse an Application without further consideration due to breach of planning control.
49. To make an Order under Section 144 of the Housing (Scotland) Act 2006 (commonly called 'a Rent Suspension Order') against the owner of an unlicensed HMO where the Officer is satisfied that the statutory criteria exist.
50. To revoke such an Order when the HMO is licensed, or the Council is satisfied that the accommodation does not need a Licence.
51. Sections 142 & 143 of the Housing (Scotland) Act 2006: To make (without conditions) a Temporary Exemption Order (Decisions to attach conditions, revoke, or extend a TEO are not delegated).
52. Section 186 of the Housing (Scotland) Act 2006 ("Power to obtain information etc."): To exercise the Local Authority's powers to serve Notice on the owner, occupier or a person who receives rent, directly or indirectly, requiring that person to state in writing:
  - (a) the nature of his interest in the land or premises,
  - (b) the name and address of any other person having such an interest, and
  - (c) any other information which is reasonably requested (including the relationship (if any) between the recipient of the Notice and any other occupants).
53. The following delegated authorities under the Civic Government (Scotland) Act 1982 are to be exercised after consultation with the Licensing Committee Convenor, whom failing the Vice-Convenor, whom failing any Member of the Licensing Committee: -
  - (a) Schedule 1 Paragraph 8(5A) Civic Government (Scotland) Act 1982: Late Renewal- to make a determination that an Application for the Renewal of a Licence should, or should not, be deemed an application made before the expiry;
  - (b) Schedule 1 Paragraph 9(2) Civic Government (Scotland) Act 1982: material change in the licensed premises - authorised to grant or refuse consent;
  - (c) Schedule 1 Paragraph 12 Civic Government (Scotland) Act 1982: Emergency Suspension - authorised to suspend a Licence under Paragraph 12, of Schedule 1 for six weeks or (if earlier) until the commencement of the 'Ordinary' Suspension hearing.
  - (d) Sections 42(5) and 42(6) of the Civic Government (Scotland) Act 1982 (Exemption from the need to hold a Late Hours Catering Licence): after consultation with the Chief Constable, to grant an Exemption Certificate:
    - (a) in respect of any particular occasion; or
    - (b) during a specified period not exceeding 2 months in any period of 12 months; and to attach any conditions that the officer thinks fit.
54. To exercise functions of the Council relating to Public Charitable Collections in conformity with Council policies.

55. Public Charitable Collections under Civic Government (Scotland) Act 1982, Section 119 - authorised in respect of a particular Collection: -

- (a) To permit a temporary departure from Committee Policy as to the dates and hours of a Collection;
- (b) to permit a Collection in an area notwithstanding that another Permission has been granted or an Exempt Promoter has notified the Council of its intention to collect in the same area; or
- (c) to vary conditions attached to the Permission under Section 119(5).

This authority is to be exercised after consultation with the Licensing Committee Convenor, whom failing the Vice-Convenor, whom failing any Member of the Licensing Committee.

- 56. Attach such conditions as are deemed appropriate to any licence.
- 57. Determination of applications for the display of signs and advertisements on private hire cars and taxis.
- 58. To consider and determine notifications of marches and processions in conformity with Council policies.
- 59. To determine for the purposes of the foregoing Licensing delegations, the definitions of 'Minor Penalty', 'Disposal', 'Excluded Disposal' and 'Excluded Offences'.
- 60. During a pandemic or other public health emergency, when the Licensing Committee is unable to meet, to determine any applications, suspensions, revocations or other business which would normally require a determination by, or a hearing before the Licensing Committee, provided the rules of natural justice, namely a right to a fair hearing, can be satisfied.
- 61. To exercise powers under paragraph 10(1) of Schedule I of the Civic Government (Scotland) Act 1982 to vary the terms of a licence.
- 62. To establish and operate a system for licensing of short-term lets in accordance with the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32

### **Democratic Services**

- 63. Appoint suitable persons to the Panel of Curators in terms of the Children (Scotland) Act 1995.
- 64. Revise periodically the fees payable to Curators.
- 65. Determining rights of access to Council documents Councillors and members of the public disclosing exempt information in terms of the Local Government (Access to Information) Act 1985.
- 66. Act as Clerk to the Children's Panel Advisory Committee in terms of the Social Work (Scotland) Act 1968, as amended.

67. Approve the Constitution, Standing Orders and other related documents of Community Councils in accordance with the Scheme of Establishment of Community Councils adopted by North Ayrshire Council.
68. Adjust as necessary the calendar of meetings and holidays in consultation with the Provost and Leader of the Council, as appropriate.
69. To provide assistance to Councillors by provision of appropriate accommodation, secretarial assistance, training and library facilities etc.
70. To act as advisor to the Council on procedural and administrative matters and to ensure the provision of adequate administrative and other support for Council and its Committees and other bodies in respect of which the Council is the lead authority.
71. In consultation with the appropriate Executive Director to submit comments to the Scottish Public Services Ombudsman and the Pensions Ombudsman into alleged maladministration.
72. To make arrangements for the opening and witnessing of all tender returns in excess of £50,000, recording the date and time of receipt in accordance with the Council's Standing Orders relating to contracts.
73. To determine whether Petition or deputation requests comply with the requirements of Council Standing Orders.
74. To deal with all applications or requests relating to civic receptions, opening ceremonies and any other ceremony, subject to consultation with the Provost.
75. To deal with requests for the grant of civic hospitality etc to any official delegations, groups and visitors to North Ayrshire and the presentation of suitable mementoes.
76. To act as the Proper Officer in terms of the Local Government (Access to Information) Act 1985 for the purposes of determining prior to a meeting whether documents should be made available to the public.
77. To carry out the functions of the Council under the Adults with Incapacity (Scotland) Act 2000 including those relating to Intervention Orders, access to funds and Guardianship Orders.
78. To provide such support and assistance as the Returning or Counting Officer may request in relation to elections, Business Improvement Districts or referenda.
79. To prepare the polling scheme for North Ayrshire and to alter or amend polling places in the event of an approved place becoming unavailable or unviable, e.g. through fire or flood or some other circumstance.
80. To manage the Council's arrangements for town twinning, including visits to or by other towns or areas with which the Council is twinned.
81. To manage the booking of the Council Car.

82. Maintenance of the Register of Disclosure of Interests in terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000.
83. To support civic functions and festivals such as the Provost's Awards, Marymass, and the Viking Festival.
84. To provide support and assistance to Community Councils.
85. To manage the Ayrshire Area Support Team shared service, and as part of this to support the appointment process and training of members of Children's' Panels.

### **Policy and Performance**

86. Support for the development of corporate policy for the Council,
87. Gathering and analysis of demographic, performance and other data relating to North Ayrshire, its neighbourhoods, and its partners.
88. To manage and administer the Council's corporate performance planning, monitoring and continuous improvement arrangements including those relating to the Council Plan, the annual Council Plan Delivery Plan, the Council Plan Performance Framework and the Public Performance Report.
89. To co-ordinate the gathering and analysis of corporate data, performance or benchmarking information and any returns or other information relating to such performance information.
90. To support and coordinate Council entries for awards.
91. To support and coordinate Council corporate assessment for the European Foundation of Quality Management, Public Sector Improvement Framework or Recognised for Excellence or other quality systems.
92. Act as the Council's representative for functions of the Registrar General for Scotland as regards statistics and Census.
93. To support functions of the Council relating to health improvement of Council employees.
94. To develop policies and procedures and otherwise to help ensure the Council complies with its duties under the Equalities Act, The United Nations Convention on the Rights of the Child, the Fairer Scotland Duty and the island-proofing requirements of the Islands (Scotland) Act 2018.
95. To coordinate and support the development of the Child Poverty Report and Action Plan.

### **Communications**

96. To authorise the issue of all publicity and promotional material related to the Council.
97. To maintain good internal and external public relations.

98. To issue publicity to promote the Council's interests and to issue appropriate releases to press and social media, or other forms of publicity on behalf of the Council.
99. To manage, maintain and make procedures relating to social media sites kept by the Council.
100. To deal with press enquiries and responses on behalf of the Council.
101. To authorise corporate branding material including logos etc to be used on behalf of the Council.
102. To undertake internal communications with Council employees and to provide policies to promote internal communication.
103. To produce marketing materials on behalf of the Council.
104. To manage and support requests to film on Council owned land and to support the effective planning of events in North Ayrshire by ensuring effective liaison with relevant partners.

### **Information Governance**

105. To undertake the Council's duties relating to records management, the Records Management Plan and to maintain and manage a records management store.
106. To provide support and assistance to services in responding to requests under the Freedom of Information (Scotland) Act 2002.
107. To provide support and assistance to Council services to enable them to comply with duties under the Data Protection Act 2018, and the General Data Protection Regulations (GDPR) and to assist them to deal with requests for the release of personal data.
108. To oversee the Data Protection impact process of any contract being tendered for services, including provision of ICT or CCTV. To develop protocols for the filing and retention of Council information.
109. In consultation with the appropriate Executive Director to submit comments to the Scottish Public Services Ombudsman and the Pensions Ombudsman into alleged maladministration.
110. To manage the Council's Customer Complaints procedures
111. To determine reviews lodged under the Freedom of Information (Scotland) Act 2002.

### **Civil Contingencies**

112. To review the performance and support the delivery by South Ayrshire as lead authority, of the Ayrshire Civil Contingencies Team shared service.

113. To exercise functions relating to civil contingencies, including identification of potential contingencies, civil contingency planning and communication, liaison with external bodies and putting in place arrangements to deal with contingencies.

## **6. Head of Service (Finance)**

The Head of Service (Finance) has overall responsibility for the functions of Finance, Treasury Management, Procurement, Revenue, Health and Safety, Risk & Insurance, Transformation Audit and Fraud.

The Head of Service (Finance) has overall responsibility for the functions of Finance, Treasury Management, Procurement, Revenues, Health and Safety, Insurance, Risk, Transformation, and Audit and Fraud.

### **Audit**

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

### **Insurance and Health and Safety**

5. Ensuring that adequate insurance arrangements are in place
6. Support and assistance to Council services to enable them to comply with duties under the Health and Safety at Work Act 1974 and other legislation relating to health and safety.
7. To be the primary point of contact with the Health and Safety Executive in matters

relating to the health and safety of Council premises or services.

## **Finance**

8. Be the Proper Officer for the financial affairs of the Council in terms of Section 95 of the Act. The responsibilities of the Proper Officer for Financial Arrangements are set out in Section 12C.
9. Produce, and regularly review the Financial Regulations of the Council and any Codes of Financial Practice made thereunder.
10. Ensure that proper systems of accounting are maintained throughout the Council and that Services comply with Council policy, legislation, financial regulation and codes of financial practice issued thereunder.
11. Prepare and monitor revenue and capital budgets for General Services, the Housing Revenue Account and any other funds provided to the Council in accordance with the Financial Regulations.
12. To be the primary point of contact with external audit and provide support, information and recommendations to external auditors.
13. The provision of financial services to other bodies, organisations, etc. subject to a charge being made where appropriate.
14. Authorise disposal or write-off of surplus materials, stores, or equipment where the value does not exceed £10,000.
15. Determine Home Loan Applications and implement amendments to interest rates for the Home Purchase Loans.
16. In consultation with the appropriate Executive Director, up to a maximum of £100,000 and in conformity to any approved policy, authorise the transfer of approved estimates from one head of expenditure to another, within a Service estimate, unless it is considered to materially affect the approved budget, in which case authorisation of the Council will be sought.
17. To agree in consultation with the Executive Director (Communities & Education) to awards of grant or other disbursements from common good or trust funds which spend capital of the fund in excess of annual revenue, having regard to whether this would be likely to promote the objectives of the fund through maximising the amount spent to promote its objectives and minimising administration costs.
18. In respect of Non-Domestic Rates, to act as the Proper Officer in terms of the appropriate legislation for all administrative purposes including: -
  - Arranging the preparation and issue of rates notices, the collection of rates, the receiving and settling of claims for exemption from rates, the handling of objections to the amount of rates levied, and the abatement, remission or repayment of rates under the various rating provisions.

- To enter into arrangements with neighbouring Councils and others concerning the collection of rates, or Council Tax on behalf of the Council and to make arrangements with each agent as to suitable collection points.

19. To bill and collect sundry income for the Council
20. Rent collection and accounting, arrears recovery and collection of other miscellaneous charges.
21. The preparation and issue of Council Tax Notices
22. To make the necessary arrangements concerning terms and commissions payable for services rendered to the Council by other agents with regard to the collection of rates, and/or other Council Tax, and the administration of any Council reduction or discount schemes etc.
23. To enter into arrangements with Scottish Water for the collection of water and waste water charges with Council Tax, and to negotiate appropriate terms and commission with the Water Authority in relation to the services rendered by the Council and its agencies

### **Treasury Management**

24. Act as the Proper Officer for the purposes of Section 92 of the Act relating to the transfer of securities.
25. Make the necessary arrangements for duly authorised borrowing and lending in terms of Section 165 of the 1994 Act
26. Act as Proper Officer in terms of Sections 92, 193(1) and 194 of the Act for the signing of all stock certificates, bonds and mortgages.
27. Act as Registrar of Stocks, Bonds and Mortgages.
28. Borrow and invest monies as required for the purposes of the Council's Treasury functions (within the terms of the Council's Treasury and Investment Policy) and perform Debt Rescheduling as appropriate.
29. Make payments by cheque or another instrument.
30. Authorise the signature of cheques and other appropriate financial documentation on behalf of the Council
31. Write off debts if satisfied that they cannot reasonably be recovered.

### **Procurement**

32. To undertake procurement functions for the Council including entering into framework agreements, central purchasing arrangements, maintenance of a standing list of approved contractors, preparation of advice and policies relating to procurement and support and assistance to Council services in undertaking procurement.

### **Risk and Business Continuity**

33. Ensure adequate risk management arrangements are in place throughout the Council.
34. To exercise functions relating to the identification, planning and mitigation of risks affecting the Council.
35. Duties relating to business continuity, including identification of issues, business continuity planning, liaison with external bodies and putting in place arrangements to deal with business continuity issues.

### **Transformational Change**

36. To support service reform and manage and support transformational change throughout Council and its services in consultation with the relevant Executive Director.

## **7. Head of Service (People and ICT)**

The Head of Service (People and ICT) has overall responsibility for the functions of People Services (including Human Resources, Learning & Organisational Development, Payroll, Employee Resourcing), ICT and Customer Services.

### **Customer Services**

1. To provide all services in respect of the duties of the Council in respect of the registration of births, deaths and marriages, citizenship ceremonies, Tell Us Once, civil ceremonies and to provide a registration family history searching facility.
2. To develop and manage all customer contact channels and to manage emergency telephone helplines.
3. Administer the Education Maintenance Allowance, School Clothing Grants and the National Entitlement Card.
4. Ingather all monies due to the Council in relation to Housing Benefit overpayments and enforce payment thereof.
5. In respect of Council Tax, to act as the Proper Officer in terms of the appropriate legislation for all administrative purposes including:-
  - The collection of Council tax, the handling of objections to the assessments and the exemption, abatement, or remission of charges.
  - To enter into arrangements with Communities Scotland etc. in accordance with Schedule 2 of the Local Government Finance Act 1992, to administer Council Tax Reduction and discounts on behalf of the Council for all those residents in the housing authority's property.
6. To administer the Scottish Welfare Fund on behalf of the Scottish Government
7. To administer a council tax reduction scheme on behalf of the Scottish Government.
8. To support the delivery of Universal Credit in North Ayrshire in accordance with the Department of Work and Pensions Delivery Partnership Agreement.

### **People Services**

9. To carry out all matters relating to staffing, recruitment, promotion and transfer within the Council's policy and apply the pay grading and conditions of service as agreed by the Council in respect of their employees.
10. To supervise and, so far as necessary, administer the Council's Corporate Human Resources Policies and Procedures.

11. Develop and maintain human resources and organisational development policies and procedures.
12. Authorise employee terms and conditions associated with Council Policies and Procedures, Appeals, Health, Safety and Wellbeing, National Agreements and Pension Regulations (Special Leave, Recruitment and Selection, Dignity at Work, Annual Leave, Discipline and Grievance, etc).
13. Contribute to the effective operation of the Council's Appeals Committee, Joint Consultative Forum and the Local Negotiating Committee for Teachers.
14. To undertake on behalf of the Council negotiations and discussions with Trade Unions and other employee organisations concerned with the interests of Council employees.
15. Implement national pay awards and amendments to national and local rates of travel, subsistence and other allowances.
16. To apply all matters which conform to the national conditions of service and local conditions of service of all categories of employees of the Council.
17. After consultation with the appropriate Executive Director to approve the acceleration of increments within existing salary scales.
18. In consultation with the appropriate Executive Director to approve applications for the termination of employment on medical grounds where such recommendations are made by the Council's Occupational Physicians.
19. To pay salary and wages and make associated arrangements for payment of Council paid employees in accordance with statutory requirements.
20. Following consultation with appropriate Executive Director to provide to the Local Government Adjudicator for Scotland on behalf of the Council, certificates required for the purposes of Section 3(3) of the Local Government and Housing Act 1989 in relation to exemption of post from political restrictions.
21. To co-ordinate the Council's arrangements for obtaining reports relating to potential criminal convictions.
22. To manage and support the Council's policies and procedures on absence at work and to enter into arrangements for the provision of an Occupational Health service, counselling or other services to support employees.
23. Enter into agreements and deliver human resources and organisational development services to other bodies.
24. To design and deliver or arrange for the delivery of training to Council employees, Councillors or others.
25. To make arrangements for employee recognition and reward.
26. To undertake employee engagement surveys.

## **ICT**

27. Review and provision technology solutions appropriate to the needs of the Council.
28. Ensure technology solutions and usage are optimised to maximise the value to the Council.
29. Maintain appropriate asset management plans and inventories for the purpose of insurance, compliance, audit control and licensing.
30. Ensure Council technology solutions are aligned to the Digital Strategy, Technology Strategy, and where appropriate other Council plans and strategies.
31. Review and authorise ICT contracts as appropriate ensuring, in conjunction with any Procuring Service and the Data Protection Officer, that when tendering for contracts, an appropriate Data Protection Impact assessment is in place.
32. Deliver security technologies, processes and controls which will support technical innovation while protecting systems, networks, and information from cyber-attacks.
33. Develop and implement the Council's Technology Strategy.

## 8. Executive Director (Communities & Education)

The Executive Director of Communities & Education has overall responsibility for the following services:-

- **Education Service**, in terms of the specific delegations set out in this document, and through the relevant committee frameworks also set out here, with regard to:
  - The strategic leadership of the functions of the Council as Education Authority, including policy, planning and service re-design to achieve the aims set out in the Council Plan and statutory Annual Education Plan.
  - The delivery of mainstream and specialist education through schools, centres and a range of additional support needs provisions, to meet the needs of children and young people at early learning and childcare, primary and secondary stages.
  - Strategic oversight and direction of: the curriculum; learning and teaching; assessment and qualifications; quality improvement and performance management.
  - The provision of an educational psychology service.
  - Strategic oversight and direction of workforce development and professional learning.
  - Strategic oversight and direction of the Local Negotiating Committee for Teachers and the Joint Consultative Committee for Education.
  - In partnership with the Director of the Health and Social Care Partnership, the strategic oversight and direction of child protection and safeguarding for all children and young people within the area of the Council.
  
- **Schools** including Curriculum; Learning and Development; Pupil Equity Fund, Attainment Fund, Educational ICT; Performance and Improvement; Professional Development; educational improvement through regional collaboration via the South West Education Improvement Collaborative; and Service Redesign
  
- **Children and Young Peoples' Services** including Integrated Children's Services Planning; the Child Poverty Strategy; Early Years Psychological Services and Additional Support for Learning; Inclusion; Parental Engagement; Youth Employment and Service Redesign
  
- **Connected Communities** including Community and Locality Planning, Community Learning and Development; (adult learning, young people and capacity building); locality hubs; Information and Culture; Libraries; Community Centres and halls; the Gaelic Plan; Sports and Activity (including Active Schools and sports development, Arran Outdoor Education Centre and the relationship with KA Leisure); Country Parks and Ranger Services; community engagement and empowerment including Participatory Budgeting, the Community Investment Fund, Community, Asset Transfer (including with the Place Directorate the Allotments Policy); the North Ayrshire Food system support for external organisations (including North Ayrshire Ventures Trust); and leading a whole system approach to planning and delivering services with partners, including communities.

## Education

The Executive Director of Communities and Education has delegated authority as follows:

### *Generally*

1. To exercise the functions of the Council as Education Authority in terms of the relevant parts of the following primary legislation and any subsequent, secondary or similar legislation replacing or expanding existing Acts pertaining to the provision of education services:

- Education (Scotland) Act 1980 as amended
- The Self-Governing Schools (Scotland) Act 1989
- Education and Training (Scotland) Act 2000
- Standards in Scotland's Schools etc. Act 2000
- Regulation of Care (Scotland) Act 2001
- Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002
- Schools Education (Amendment)(Scotland) Act 2002
- Education (Additional Support for Learning) (Scotland) Act 2004
- School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004
- Scottish Schools (Parental Involvement) Act 2006
- Schools (Consultation)(Scotland) Act 2010

### *Specifically*

- 2 To discharge the duty of the Council as Education Authority to ensure adequate and efficient provision of school education in terms of sections 1-14 of the 1980 Act and sections 1-2 of the 2000 Act and in accordance with approved Council policy.
- 3 To discharge the duty of the Council as Education Authority to secure improvement in the quality of school education and to publish annual plans and reports in that regard, in terms of sections 3-7 of the 2000 Act and sections 1-6 of the 2016 Act.
- 4 To implement the principle of the presumption set out in section 15 of the 2000 Act that education be provided in mainstream education settings unless in exceptional circumstances.
- 5 To discharge the duty of the Council as Education Authority to make adequate provision to meet the additional support needs of learners as set out in the Education (Additional Support for Learning) (Scotland) Acts 2004 and 2009.
- 6 To exercise, at discretion, the powers available to the Council as Education Authority, in terms of section 23 of the 1980 Act, with regard to the provision by the Council of education for children from outwith the area of the Council, including the setting of placement fees for other Education Authorities. In addition, to authorise the payment of such fees to other Education Authorities and external providers where education has been provided at the request of the Education Authority for children normally resident in the area of the Council.
- 7 To discharge the duty of the Council as Education Authority in the provision of Gaelic Medium Education in terms of sections 7-18 of the 2016 Act.

- 8 To determine school term dates and in-service days after consultation with appropriate trade unions, education staff and parent councils.
- 9 To exercise the functions of the Education Authority in relation to the promotion and management of pupil attendance in schools, in terms of sections 36-41 of the 1980 Act and with regard to the Scottish Government national guidance document: Included, Engaged and Involved: Part 1 (2019, revised).
- 10 To exercise, at discretion, the powers available to the Council as Education Authority in respect of exclusion of pupils from school, in terms of regulation 4 of the Schools General (Scotland) Regulations 1975 as amended and with regard to the Scottish Government national guidance document: Included, Engaged and Involved, Part 2 (2017).
- 11 To determine and manage a Devolved School Management (DSM) Scheme, which sets out how educational establishments within the Education Authority are funded and how financial accountability is assured, in terms of section 8 of the 2000 Act and the Scottish Government Devolved School Management Guidelines (2019).
- 12 To appoint and supervise teaching staff in terms of Part IV of the 1980 Act and in accordance with the DSM scheme and local agreements approved by the North Ayrshire Local Negotiating Committee for Teachers (LNCT).
- 13 To implement all decisions taken within the terms of reference of the North Ayrshire LNCT, provided that any resultant financial commitments are contained within the Service budget.
- 14 To exercise, in conjunction with the Head of Service (People & ICT), and through the LNCT, the discretionary powers available in the implementation of conditions of service in relation to teachers in the employment of the Council, as set out in Appendix 1.3 of the Scottish Negotiating Committee for Teachers (SNCT) Handbook or any amendment thereof.
- 15 To arrange professional learning for the education workforce in pursuance of improved standards of service delivery and improved learner outcomes.
- 16 To approve temporary secondments by teaching staff to posts outwith the area of the Council and temporary secondments within the area of the Council by teaching staff from elsewhere.
- 17 To consider and determine all applications for the provision of footwear and clothing and/or the provision of free school meals for learners at local authority schools, in terms of sections 53-56 of the 1980 Act and sections 22-23 of the 2016 Act, and in accordance with Council policy.
- 18 To consider and determine all placing requests under section 28 of the 1980 Act, sections 43-44 of the 2000 Act and Schedule 2 of the Education (Additional Support for Learning) (Scotland) Act 2004 in accordance with the guidelines formulated by the Council and, where appropriate, to make representation to the Education Appeals Committee in respect of any appeals against decisions.
- 19 To consider and determine applications from educational establishments for residential school excursions overseas or participation in exchange programmes.
- 20 To carry out the administration, assessment and award of Education Maintenance Allowances (EMAs) in accordance with Council policy.

- 21 To authorise discretionary grants to staff and/or pupils in connection with courses, conferences, educational visits and excursions within budget allocation.
- 22 To issue licences in terms of the Children (Performances and Activities) (Scotland) Regulations 2014.
- 23 To approve monthly unitary charge invoices in respect of Public Private Partnership and NDP contracts.
- 24 To accept and administer any new trusts or small endowments which may be offered to the Council for schools managed by the Council and to receive and determine applications for distribution of funds in any endowments, subject to the terms of the endowment
- 25 Manage the Educational Services Department and the provision of education in accordance with approved policy.
  1. Accept and administer any new trusts or small endowments which may be offered to the Council for schools in their area.
  2. Transfer teachers within the policy established by the Education Authority and, where appropriate, pay transfer expenses.
  3. Exercise the discretionary powers available in implementation of conditions of service in relation to teachers in the employment of the Authority.
  4. Carry out the administration, assessment and award of education maintenance allowances.
  5. Make discretionary grants to pupils to enable them to attend courses and conferences and to undertake additional visits and excursions at home and abroad within the approved estimates and policies of the Council.
  6. To make grants of up to £1000 to voluntary organisations, schools and other organisations which make provision for children of school age, pre-5s or out-of- school care.
  7. To approve support for any type of educational course and to make grants from any bursary or other financial scheme operated by the Council.
  8. To make grants to employees and/or pupils in connection with courses, conferences, educational visits and excursions.
  9. To make grants to pupils who are selected to join national music ensembles in respect of fees and attendance at courses related to their membership of these bodies.
  10. Exercise the powers available to the Council as Education Authority in relation to the exclusion of pupils from schools in line with policy.
  11. Determine the dates of local school holidays within the Council after consultation.
  12. Determine the dates of the 5 teachers' in-service days after due consultation with all relevant parties.

13. To receive and determine applications for distribution of funds in any endowments, subject to the terms of the endowment.
14. To accept and administer any new trusts or small endowments which may be offered to the Council for schools in its area.
15. To issue licenses in terms of the Children (Performances) Regulations 1968 and the Children (Performances and Activities) (Scotland) Regulations 2014.
16. To agree or refuse requests for access to an amendment of records in terms of the Pupils Education Records (Scotland) Regulations 2003 and the Further Education Student Records (Scotland) Regulations 1990 and to review any such decisions.
17. Authorised to approve monthly PPP and NDP Unitary Charge invoices.
18. In accordance with the Council's approved policies for early release, in conjunction with the Head of Service (People and ICT), to approve any application by a teacher or associated professional for voluntary early retirement, redundancy or early release.

## **Connected Communities**

The Executive Director of Communities and Education has delegated authority as follows:

### *Specifically:*

- 19 To exercise the functions of the Council in terms of the relevant parts of the following primary legislation and any subsequent, secondary or similar legislation replacing or expanding existing Acts pertaining to the provision of community services:
- Community Empowerment (Scotland) Act 2015
  - Gaelic Language (Scotland) Act 2005
  - The Requirements for Community Learning and Development (Scotland) Regulations 2013
  - Period Products (Free Provision) (Scotland Act 2021
  - Local Government (Scotland) Act 2003 (includes library/museum legislation)

### *Generally:*

- 20 To ensure proper arrangements for developing and ensuring excellent relationships with our communities, including through community engagement, consultation, participation, participatory democracy and community empowerment.
- 21 To develop and support the capacity of organisations, individuals and communities, including young people to become involved in, and contribute to North Ayrshire, its neighbourhoods and communities. in the context of Fair for All and the reduction of inequalities, including through the Child Poverty Report and Action Plan.
- 22 To support the development of community and locality planning, the development of defined neighbourhood priorities and community action plans; Locality Planning Partnerships, including the application of Community Investment and other internal and external funding for this purpose.
- 23 To support the progress of the Local Governance Review and Democracy Matters in relation to community empowerment and subsidiarity.
- 24 To support local organisations in the development of local democratic approaches, including community councils, community associations and community development trusts.
- 25 To develop and support North Ayrshire's approach to participatory democracy.
- 26 To develop and support North Ayrshire's approach to Participatory Budgeting, including grant awarding and mainstreaming.
- 27 To develop and support the national Youth Work strategy and maintain excellence in our work with young people.
- 28 To tackle child poverty through our work with children, young people and families.

- 29 To develop and support the national Adult Learning Strategy and maintain excellence in our work with adults.
- 30 To innovate in relation to community engagement, e.g. Consul and Consultation Institute, including Centre of Excellence.
- 31 To support organisations and communities seeking to acquire Council assets in terms of the Council's Asset Transfer Policy
- 32 To develop an Allotments Policy to support community aspirations.
- 33 To manage Participation Requests, Asset Transfer Requests, and Community Right to Buy Requests under the Community Empowerment (Scotland) Act
- 34 To ensure the design and delivery of community learning and development, including youth services, adult learning and community capacity building and empowerment, and take responsibility for the North Ayrshire Community Learning Plan.
- 35 To develop relationships and ensure the co-design and co-delivery of services with third and voluntary sector partners, through the Third Sector Interface and other approaches.
- 36 To develop and support the community and locality hub system, to support and work with citizens close to where they live.
- 37 To develop and support the North Ayrshire Food System.
- 38 To ensure the provision of an adequate library and information service which meets the needs of residents including the development of an enhanced digital offer.
- 39 To support arts and culture within and relating to North Ayrshire.
- 40 To support the aspirations of the artistic and cultural communities of North Ayrshire in pursuit of their aspirations.
- 41 To acquire whether by purchase, donation, bequest or exchange any items for the museum and art collections of the Council.
- 42 To grant permission to reproduce works of art and approve publications and to impose the appropriate charges for those artefacts and exhibits in the Council's ownership.
- 43 To authorise the acceptability of gifts to art galleries or museums on behalf of the Council and to acknowledge the acceptability of these gifts.
- 44 To authorise the loan to outside bodies of works of art or museum exhibits, in consultation with the Head of Service (Finance) in relation to insurance arrangements.
- 45 To select, acquire and as necessary discard all books and other printed material, audio visual pictures, electronic images and other library material and all materials for museums, within the approved budget.
- 46 To let or arrange for the letting, hire and use of public and community halls, schools and

sports facilities and the provision of entertainment and events approved by the Council within the remit of the service and accordance with the policies or practices and procedures of the Council.

- 47 To lead and develop for the CPP an Active Communities Strategy and Plan, designed to increase the amount and quality of physical activity experienced by North Ayrshire residents, for the benefit of their physical and mental health and well-being.
- 48 To develop a whole systems approach to inclusion in sports and physical activity, working with care experienced children and young people and their families.
- 49 Authorised to monitor the performance of North Ayrshire Leisure Trust/KA Leisure in delivering services in accordance with agreements between North Ayrshire Council and the Trust.
- 50 The management and delivery of Council sports and leisure facilities not operated by North Ayrshire Leisure Trust/KA Leisure.
- 51 Support for community events, festivals and activities.
- 52 To provide support and assistance to Community Councils, Community Associations and Community Development Trusts.
- 53 To provide discretionary grants to community organisations in pursuit of community interests.
- 54 To support North Ayrshire Ventures Trust, the Spiers Trust, Kilbirnie Loch Management Group, the Clyde Muirshiel Regional Park Committee, the Brodick Country Park Committee and other appropriate Community groups within North Ayrshire.
- 55 To develop and manage Eglinton Park and related open spaces.
- 56 Outdoor education including management and development of Arran Outdoor Education Resource Centre.
- 57 In accordance with the recommendations of the Locality Partnership made by consensus, or which failing, by the Elected Member or Members on the Locality Partnership in question, to agree and administer the disbursement of any grant or other financial payment to local organisations or individuals from within the area in terms of the relevant community development grant scheme, common good funds or other public trusts, subject to the following paragraph.
- 58 To agree in consultation with the Head of Service (Finance) to awards of grant or other disbursements from common good or trust funds which spend capital of the fund in excess of annual revenue, having regard to whether this would be likely to promote the objectives of the fund through maximising the amount spent to promote its objectives and minimising administration costs.
- 59 To name streets in consultation with the relevant Locality Partnership.

## **Community and Locality Planning**

- 60 To lead on a transformative whole system approach to community and locality planning, to reduce inequalities.
- 61 To lead on and support the development of the Fair for All Strategy
- 62 To support the development of the Child Poverty Report and Action Plan.
- 63 To design and implement the Council's Community and Locality Planning arrangements with partners, including communities.
- 64 To gather and analyse demographic, performance and other data relating to North Ayrshire, its neighbourhoods, and its partners.
- 65 To provide support to Community Planning Partners in the co-design and co-delivery of the Locality Outcomes Improvement Plan and locality priorities.
- 66 To manage and administer the community and locality planning arrangements, including support to the CPP Board and Senior Officer Group.
- 67 To support the development of the Community Engagement and Consultation Centre of Excellence.

## 9. Director of Health and Social Care Partnership

North Ayrshire Council has delegated certain functions to the North Ayrshire Integration Joint Board, which has in turn delegated the following powers to the Director of the Health and Social Care Partnership as its Chief Officer. The Director of the Health and Social Care Partnership will act as both the Chief Officer of North Ayrshire Integration Joint Board and provide a single point of overall strategic leadership for North Ayrshire Health and Social Care Partnership. In recognition of the fact that the Health and Social Care Partnership will exercise Council functions (including functions relating to mental health and procurement) not otherwise delegated to the Integration Joint Board, the Council delegates to the Director of the Health and Social Care Partnership overall responsibility for the following Local Authority services not otherwise delegated to the Integration Joint Board: -

- Social work services for adults and older people;
- Services and support for adults with physical disabilities, learning disabilities;
- Mental health services;
- Drug and alcohol services;
- Adult protection and domestic abuse;
- Carers support services;
- Community care assessment teams;
- Support services;
- Care home services;
- Adult placement services;
- Health improvement services;
- Aids and adaptations and gardening services;
- Day services;
- Local area co-ordination;
- Respite provision;
- Occupational therapy services;
- Re-ablement services, equipment and telecare.

### Local Additions

- Criminal justice social work services
- Children and families social work services
- The Director is also responsible for and has delegated responsibility for certain services of NHS Ayrshire and Arran, both within North Ayrshire and on a pan- Ayrshire basis. This Scheme of Delegation only details those Council functions which are delegated. See the North Ayrshire Integration Scheme and the NHS Ayrshire and Arran Scheme of Delegation for details of specific NHS delegations

The Director is responsible for the leadership and co-ordination, planning and policy and the strategic and operational management of the following functions: -

## **1. National Assistance Act 1948**

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

## **2. Matrimonial proceedings (Children) Act 1958**

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

## **3. The Disabled Persons (Employment) Act 1958**

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

## **4. The Social Work (Scotland) Act 1968**

- Section 1 (The enforcement and execution of the provisions of the Social Work (Scotland) Act 1968.)
- Section 4 (The making of arrangements with voluntary organisations or other persons for assistance with the performance of certain functions.)
- Section 5 (Local Authorities to perform their functions under the Act under the guidance of the Secretary of State.)
- Section 6B (Local Authority inquiries into matters affecting children.)
- Section 8 (The conducting of or assisting with research in connection with functions in relation to social welfare and the provision of financial assistance in connection with such research.)
- Section 10 (The making of contributions by way of grant or loan to voluntary organisations whose sole or primary object is to promote social welfare and making available for use by a voluntary organisation premises, furniture, equipment, vehicles and the services of staff.)
- Section 12 (The promotion of social welfare and the provision of advice and assistance) except in so far as it is exercisable in relation to the provision of housing support services.
- Section 12A (The assessment of needs for community care services, the making of decisions as to the provision of such services and the provision of emergency community care services.)
- Section 12AZA (The taking of steps to identify persons who are able to assist a supported person with assessments under section 12A and to involve such persons in such assessments.)
- Section 13 (The assistance of persons in need with the disposal of their work.)
- Section 13ZA (The taking of steps to help an incapable adult to benefit from community care services.)
- Section 13A (The provision, or making arrangements for the provision, of residential accommodation with nursing.)
- Section 13B (The making of arrangements for the care or aftercare of persons suffering from illness.)
- Section 14 (The provision or arranging the provision of domiciliary services and laundry services.)

- Section 27 (Supervision and care of persons put on probation or released from prisons etc.)
- Section 27ZA (Grants in respect of community service facilities.)
- Section 28 (The burial or cremation of deceased persons who were in the care of the Local Authority immediately before their death and the recovery of the costs of such burial or cremation) so far as it is exercisable in relation to persons cared for or assisted under another delegated function.
- Section 29 (The making of payments to parents or relatives of, or persons connected with, persons in the care of the Local Authority or receiving assistance from the Local Authority, in connection with expenses incurred in visiting the person or attending the funeral of the person.)
- Section 59 (The provision of residential and other establishments.)
- Section 78A (Recovery of contributions.)
- Section 80 (Enforcement of duty to make contributions.)
- Section 81 (Provisions as to decrees for ailment.)
- Section 83 (Variation of trusts.)
- Section 86 (The recovery of expenditure incurred in the provisions of accommodation, services, facilities or payments for persons ordinarily resident in the area of another Local Authority from the other Local Authority.)

#### **5. The Children Act 1975**

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

#### **6. The Local Government and Planning (Scotland) Act 1982**

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

#### **7. Health and Social Services and Social Security Adjudications Act 1983**

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

## **8. Foster Children (Scotland) Act 1984**

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

## **9. Disabled Persons (Services, Consultation and Representation) Act 1986**

- Section 2 (The making of arrangements in relation to an authorised representative of a disabled person and the provision of information in respect of an authorised representative.)
- Section 3 (The provision of an opportunity for a disabled person or an authorised representative of a disabled person to make representations as to the needs of that person on any occasion where it falls to a Local Authority to assess the needs of the disabled person for the provision of statutory services by the authority, the provision of a statement specifying the needs of the person and any services which the authority proposes to provide, and related duties.)
- Section 7 (The making of arrangements for the assessments of the needs of a person who is discharged from hospital.)
- Section 8 (Having regard, in deciding whether a disabled person's needs call for the provision of services, to the ability of a person providing unpaid care to the disabled person to continue to provide such care.)

## **10. The Children (Scotland) Act 1995**

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

## **11. Criminal Procedure (Scotland) Act 1995**

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

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

## **12. The Adults with Incapacity (Scotland) Act 2000**

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

## **13. The Housing (Scotland) Act 2001**

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

## **14. The Community Care and Health (Scotland) Act 2002**

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

## **15. The Mental Health (Care and Treatment) (Scotland) Act 2003**

- Section 17 (The provision of facilities to enable the carrying out of the functions of the Mental Welfare Commission.)
- Section 25 (The provision of care and support services for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services.
- Section 26 (The provision of services designed to promote well-being and social development for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services.
- Section 27 (The provision of assistance with travel for persons who have or have had a mental disorder) except in so far as it is exercisable in relation to the provision of housing support services.
- Section 33 (The duty to inquire into a person's case in the circumstances specified in 33(2).)
- Section 34 (The making of requests for co-operation with inquiries being made under

section 33(1) of that Act.)

- Section 228 (The provision of information in response to requests for assessment of the needs of a person under section 12A(1)(a) of the Social Work (Scotland) Act 1968.)
- Section 259 (The securing of independent advocacy services for persons who have a mental disorder.)

#### **16. Management of Offenders etc. (Scotland) Act 2005**

- Sections 10-11 (Assessing and managing risks posed by certain offenders.)

#### **17. The Housing (Scotland) Act 2006**

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

#### **18. Adoption and Children (Scotland) Act 2007**

- Section 1 (Duty of Local Authority to provide adoption service.)
- Sections 4-6 (Local Authority to prepare and publish a plan for the provision of adoption service; Local Authority to have regard to Scottish Ministers' Guidance and; assistance in carrying out functions under sections 1 and 4.)
- Sections 9-12 (Adoption support services.)
- Section 19 (Local Authority's duties following notice under section 18.)
- Section 26 (Procedure where an adoption is not proceeding.)
- Section 45 (Adoption support plans.)
- Section 47-49 (Family member's right to require review of an adoption support plan; cases where Local Authority under a duty to review adoption support plan and; reassessment of needs for adoption support services.)
- Section 51 (Local Authority to have regard to guidance issued by Scottish ministers when preparing or reviewing adoption support plans.)
- Section 71 (Adoption allowances schemes.)
- Section 80 (Application to court by Local Authority for the making of a Permanence Order.)
- Section 90 (Precedence of court orders and supervisions requirement over permanence order.)
- Section 99 (Duty of Local Authority to apply for variation or revocation of a permanence order.)
- Section 10 (Notification requirements upon Local Authority.)
- Section 105 (Notification requirements upon Local Authority where permanence order is proposed – relates to child's father.)

#### **19. The Adult Support and Protection (Scotland) Act 2007**

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

- Section 14 (The making of an application for a removal order.)
- Section 16 (Council officer entitled to enter any place in order to move an adult at risk from that place in pursuance of a removal order)
- Section 18 (The taking of steps to prevent loss or damage to property of a person moved in pursuance of a removal order.)
- Section 22 (The making of an application for a banning order.)
- Section 40 (The making of an application to the justice of the peace instead of the sheriff in urgent cases.)
- Section 42 (The establishment of an Adult Protection Committee.)
- Section 43 (The appointment of the convener and members of the Adult Protection Committee.)

## **20. Children's Hearings (Scotland) Act 2011**

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

## **21. Social Care (Self-directed Support) (Scotland) Act 2013**

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

## **22. Carers (Scotland) Act 2016**

- Section 6 (Duty to prepare adult carer support plan)
- Section 21 (Duty to set local eligibility criteria for carer support)
- Section 24 (Duty to provide support)
- Section 25 (Provision of support to carers: breaks from caring) Section 31 (Duty to prepare local carer strategy)
- Section 34 (Information and advice service for carers)
- Section 35 (Short breaks services statements)

## **23. Miscellaneous**

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

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

**24.** Support the Chief Social Work Officer in the discharge of his or her specific functions.

**25.** On a recommendation of North Ayrshire Integration Joint Board and subject to consultation with the Chief Finance Officer of the Integration Joint Board to enter into contracts for the supply of goods and materials, the execution of works and the provision of services where there is adequate provision in the estimates and in accordance with the Standing Orders for Contracts (which currently provides for letting of contracts by officers where the expenditure is less than £1m.) or the contract is let in terms of a framework agreement to which the Council or Integration Joint Board is a party.

**26.** To lead the coordination of the Council's response to the Prevent strand of the CONTEST counter-terrorism strategy.

**Chief Social Work Officer**

The duties of Chief Social Work Officer as set out in section 12D hereof will be undertaken by the Chief Officer so appointed.

## 10. Executive Director (Place)

The Executive Director (Place) has overall responsibility for the following services: -

- **Commercial Services** including Waste Services, Roads and Engineering Services, Streetscene. Parks and Open Spaces, and Burial Grounds
- **Sustainability, Transport and Corporate Property** including Sustainability, Corporate Transport Hub and Property Management & Investment.
- **Commercial Services** including Waste Services, Roads and Engineering Services, Streetscene. Parks and Open Spaces, and Burial Grounds
- **Housing and Public Protection** including Housing Services, Homelessness & Community Safety, Corporate and Public CCTV, Facilities Management (Catering, Cleaning, Janitorial, School Crossing Patrols and Public Conveniences), Building Services and Protective Services (Building Standards, Environmental Health, Trading Standards).
- **Economic Development and Regeneration** including Business Support and Development; Regeneration; Planning; Commercial Estates, Employability and Skills and Economic Policy and Partnership.

### **Waste Services**

1. Authorised to exercise the functions of the Council in respect of the collection, recycling and disposal of Household Waste in accordance with the Environmental Protection Act 1990 and other legislation.
2. Authorised to exercise the functions of the Council in respect of the collection, recycling and disposal of Commercial Waste in accordance with the Environmental Protection Act 1990 and other legislation.
3. Specification of type of waste receptacles.
4. Set charges for services.
5. The removal and disposal of abandoned vehicles and other refuse in terms of the Refuse Disposal (Amenity) Act 1978.

### **Streetscene**

6. To sell or dispose of surplus vehicles and plant belonging to the Council.
7. Oversee: -
  - The Corporate Transport Hub including carrying out of repair to vehicles, plant, mechanical equipment as well as the operation of maintenance schedules;
  - The replacement of vehicles, plant and mechanical equipment within the Council's policy in consultation with the appropriate Chief Officers and to act as the Council's

## Transport Officer

8. To sign agreement forms for rental, hire or leasing of items of equipment where the rental or hire charge does not exceed £150,000pa unless otherwise provided for.
9. To operate a MOT Testing Station and garage for the repair and testing of vehicles owned or licensed by the Council.
10. To fulfil the requirements of the Transport Act 1968 and the Goods Vehicles (Licensing of Operators) Act 1995 in relation to any Operator's Licence including:
  - (a) Section 8 of the Goods Vehicles (Licensing of Operators) Act 1995 to apply for and publicise notice of the application for an operator's licence;
  - (b) Section 17 of the Goods Vehicles (Licensing of Operators) Act 1995 to apply for variations to an operator's licence;
  - (c) Section 95 of the Transport Act 1968 and subordinate legislation made thereunder to ensure that requirements relating to drivers' hours are complied with; and
  - (d) Section 98 of the 1968 Act and subordinate legislation made thereunder to ensure that requirements relating to the keeping of written records for drivers' hours are complied with.
11. To provide and manage school transport in terms of section 32 of the Local Government etc. (Scotland) Act 1994, the Education (Scotland) Act 1996, the Standards in Schools etc. (Scotland) Act 2000.
12. To take such steps as are required to comply Road Traffic, Transport and Health and Safety requirements relating to services, transport and works provided by the Council, including without prejudice to the foregoing generality the provisions of the Road Traffic and Transport Acts, the Smoking, Health & Social Care (Scotland) Act 2005, Section 22 (c) of the Civic Government (Scotland) Act 1982, the Road Vehicles (Constructions and Use) Regulations 1996 and BS5423, the Compulsory Seat Belt Regulations, the Control of Vibration at Work Regulations 2005 - for external hire equipment/plant and the Provision and Use of Work Equipment Regulations 1998 (PUWER) - for external hire equipment/plant
13. To co-operate with Strathclyde Partnership for Transport in terms of Section 88 of the Transport Act 1985 to secure the best value for money, from expenditure on public passenger transport.
14. To provide burial services in terms of Burial Grounds (Scotland) Act and take all necessary action with regard to the supervision and management of the Council's cemeteries and burial grounds including the sale of lairs etc.

## **Roads and Engineering Services**

15. Authorised to appoint officers for the enforcement of management rules for cemeteries, war memorials and public parks.
16. Provision, maintenance and emptying of litter bins in terms of the Litter Act 1983.
17. To remove and dispose of abandoned vehicles and recover expenses for their removal, to remove and dispose of refuse other than a motor vehicle and to enter land at any reasonable

time in terms of the Refuse Disposal (Amenity) Act 1978.

18. The regulation of the use of parks, open spaces, civic spaces and pedestrian precincts, cemeteries and other similar facilities.
19. The exercise of any functions of the Council required in terms of management rules approved by the Council under the Civic Government (Scotland) Act 1982. The exercise of enforcement powers in respect of legislation governing littering, fly tipping, fly posting, dog fouling and the parks management rules.
20. Authorised to appoint officers to issue fixed penalty notices for litter, dog fouling, fly tipping and fly posting offences via any relevant departmental officers within appropriate delegated authority.
21. Authorised to let or arrange for letting, hire, maintenance and use of playing fields in accordance with policies, practices and procedures and subject to the charges fixed from time to time by the Council.
22. To exercise the operational management of functions detailed in the following legislation, any subordinate legislation made thereunder and any subsequent or similar legislation or replacing or expanding legislation, including service of any notices required thereunder: -
  - Coast Protection Act 1949,
  - Roads (Scotland) Act 1984,
  - Roads Traffic Regulation Act 1984,
  - Disabled Persons Parking (Scotland) 2009,
  - Flood Prevention (Scotland) Act 1961
  - Flood Prevention and Drainage (Scotland) Act 1997,
  - Flood Risk Management (Scotland) Act 2009,
  - Transport (Scotland) Act 2005 2019
  - New Roads and Street Works Act 1991
23. Authorised, after consultation with the Chief Constable and the Chief Executive to make, revoke or vary orders and schemes under the following legislation, providing no objections are received: -
  - Road Traffic Regulation Act 1984
  - Section 68, 69, 70, 71 of the Roads (Scotland) Act 1984
24. Authorised to grant wayleaves in respect of public utilities.
25. Authorised to carry out function of the Road Safety Officer in conjunction with the Chief Constable.48. Authorised to deal with all requests for information in connection with grant applications made under section 8 of the Railways Act 1974 (Grants to assist in the provision of facilities for freight haulage by rail).
26. Authorised to carry out the functions and duties of Harbour Authority and through the appointed Roads Manager, the functions of Harbour Manager under the Harbours Act 1964, the Millport Piers Order, and the Saltcoats Harbour Act in relation to piers,
27. Authorised to exercise functions of the Council under section 12 of the Roads (Scotland) Act 1984 in relation to the stopping up or diversion of highways, crossing or entering routes of

proposed new highways harbours and navigable rivers.

28. Authorised after consultation with the Chief Executive to agree terms for bridge agreements with the relevant Railway body and terms of discharge of the Councils liability for annual maintenance and renewal charges in that connection.
29. Authorised after consultation with the Chief Constable to consider and, where acceptable in road safety terms, approve locations for advertisements on road safety barriers and similar structures subject to the necessary consents being obtained in respect of Planning Approval.
30. Authorised to make arrangements for the management of car parks etc including granting their use or part thereof to other persons and bodies, and the imposition or waiving of charges for such use.
31. To carry out the functions of the Council in terms of Section 4, 5, 8, 12 and 25 of the Coast Protection Act 1949.
32. Authorised in terms of the Health and Safety at Work Act 1974 and the Electricity at Work Regulations 1989 to carry out all duties set out in the statements of responsibilities for (health, safety and welfare in places of work) and the general statement of policy and health and safety at work issued in 1985 as amended.
33. Authorised to respond to consultation for applications for planning development control where these relate to roads and flooding issues.
34. Carry out the functions of the Council under the Transport (Scotland) Act 2005 and associated legislation and amendments, including enforcement and imposition of penalties as prescribed in the Act and the relevant Code of Practice

### **Property Management & Investment**

35. To manage the Council's physical assets including management of non-operational and operational land and buildings.

Authorised to proceed with the repairs and maintenance to the Councils operational property portfolio in accordance with relevant approved policies and the Council's Property Asset Management Plan.

36. Authorised to proceed with the repairs and maintenance to the public realm.
37. Subject to the Councils Standing Orders relating to contracts to arrange for the demolition and clearance of buildings declared surplus by the Council where this is to be considered in the interest of the Council, and subject to advising the relevant Cabinet Member and local Elected Members.
38. Authorised to apportion office accommodation amongst Council services and to arrange for any necessary alterations or adaptations to such accommodation.
39. Authorised to ensure the proper application of the Council's Property Asset Management Strategy with respect to property including space standards etc.

40. To maintain the Council's Property Asset Register and keep a record of all property assets owned by the Council.
41. Authorised to enter into wayleaves, servitudes and leases with statutory bodies and other providers of utility services and telecommunication services who require rights over land for particular purposes

Authorised to negotiate and settle all claims arising from the exercise of the Councils powers - to enter upon and take land in the discharge of statutory powers.

### **Sustainability**

42. To monitor the energy performance of buildings in terms of the Energy Performance or Buildings (Scotland) Regulations 2008.
43. To undertake Council functions relating to carbon reduction and climate control in terms of the Climate Change (Scotland) Act 2009 amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.

### **Transport Hub**

1. To sell or dispose of surplus vehicles and plant belonging to the Council subject to the Council's Standing Orders for Contracts and appropriate policies.
2. Oversee: -
  - The Corporate Transport Hub including carrying out of repair to vehicles, plant, mechanical equipment as well as the operation of maintenance schedules;
  - The replacement of vehicles, plant and mechanical equipment in accordance with the Council's Fleet Asset Management Plan in consultation with the appropriate Chief Officers and to act as the Council's Transport Officer
3. To sign agreement forms for rental, hire or leasing of items of equipment where the rental or hire charge does not exceed £150,000pa in accordance with the Council's Standing Orders for Contracts and appropriate policies.
4. To operate a MOT Testing Station and garage for the repair and testing of vehicles owned or licensed by the Council.

5. To fulfil the requirements of the Transport Act 1968 and the Goods Vehicles (Licensing of Operators) Act 1995 in relation to any Operator's Licence including:
  - (a) Section 8 of the Goods Vehicles (Licensing of Operators) Act 1995 to apply for and publicise notice of the application for an operator's licence;
  - (b) Section 17 of the Goods Vehicles (Licensing of Operators) Act 1995 to apply for variations to an operator's licence;
  - (c) Section 95 of the Transport Act 1968 and subordinate legislation made thereunder to ensure that requirements relating to drivers' hours are complied with; and
  - (d) Section 98 of the 1968 Act and subordinate legislation made thereunder to ensure that requirements relating to the keeping of written records for drivers' hours are complied with.
6. To provide and manage school transport in terms of section 32 of the Local Government etc. (Scotland) Act 1994, the Education (Scotland) Act 1996, the Standards in Schools etc. (Scotland) Act 2000.
7. To take such steps as are required to comply Road Traffic, Transport and Health and Safety requirements relating to services, transport and works provided by the Council, including without prejudice to the foregoing generality the provisions of the Road Traffic and Transport Acts, the Smoking, Health & Social Care (Scotland) Act 2005, Section 22 (c) of the Civic Government (Scotland) Act 1982, the Road Vehicles (Constructions and Use) Regulations 1996 and BS5423, the Compulsory Seat Belt Regulations, the Control of Vibration at Work Regulations 2005 - for external hire equipment/plant and the Provision and Use of Work Equipment Regulations 1998 (PUWER) - for external hire equipment/plant
8. To co-operate with Strathclyde Partnership for Transport in terms of Section 88 of the Transport Act 1985 to secure the best value for money, from expenditure on public passenger transport.

## **Housing**

44. Authorised to manage the Councils housing stock within approved policies.
45. The allocation of housing (including the allocation of pitches to Travelling Persons and the letting of garages and decisions on homelessness priority and the allocation of housing to homeless applicants in accordance with the Council's policy as required in terms of the Housing (Scotland) Acts 1987, 2001 and 2014 and the Homeless etc. (Scotland) Act 2003, and any subsequent legislation relating to Housing Services.
46. Undertake the Councils statutory responsibilities in terms of the prevention of Homelessness and Homelessness provision in line with the Housing Scotland Act 1987 as amended.
47. Authorised to sign missives of let issued under the terms of the Housing (Scotland) Act 1987.
48. Authorised to exercise powers with respect to sub-standard housing under the Civic Government (Scotland) Act 1982 and the Housing (Scotland) Act 2006
49. Authorised to exercise powers with respect to closing and demolition orders under the Housing (Scotland) Act 2006.

50. Authorised to exercise powers with respect to houses in multiple occupation under the Housing (Scotland) Act 2006.
51. Authorised to exercise powers with respect to compensation payments under sections 304 - 310 of the Housing (Scotland) Act 1987.
52. Authorised to agree, recharge and recover amounts payable by private owners as part of common repairs involving Council property.
53. Authorised to sign notices of proceedings and notices to quit to raise proceedings for repossession of dwelling housing.
54. Authorised to exercise powers with respect of regulation of private landlords as required under the Anti-Social Behaviour etc (Scotland) Act 2004 - Section 7 and 8.
55. Control and monitoring of the Housing Revenue Account Capital and Revenue budgets.
56. Making payments in respect of tenants/resident's groups, re-decoration grants, ex- gratia payments and similar such payments.
57. Authorise payments of grants applicable in terms of the Housing (Scotland) Act 2001 and 2006, relative to the improvement of houses;
58. Providing out of hours emergency services for homeless persons, urgent repairs etc.
59. Consulting with tenants/residents' groups on housing issues.
60. Ordering, managing, performing and inspection of repairs and improvements to ensure that housing stock meets the Scottish Housing Quality Standard and Energy Efficiency Standards for Social Housing wherever practicable.
61. Arrange for the routine maintenance and repair of and to implement programmes of planned maintenance as previously approved by the Council has also emergency repair to Council's housing stock for which adequate provision is made in the Estimates and, where such maintenance, repair etc. cannot be undertaken directly by the Council's workforce, to engage contractors from approved lists by competitive tender as required;
  - Arrange for routine, planned, reactive and emergency maintenance and repair of Council housing stock as required in accordance with approved asset management plans and other relevant policy. Also to arrange to engage contractors from approved lists by competitive tender for such works, as required and where there works cannot be undertaken directly by the Council's workforce.
62. Determining in accordance with relevant legislation or Council policy requests for succession of tenancies, mutual exchanges, lodgers, sub-letting, alterations etc.
63. Providing a factoring service for purchasers of Council houses and recovering appropriate charges.
64. Making representations to the Scottish Government and other appropriate Government Bodies and Agencies, where appropriate, to maximise prospects of improving housing provision within the area.

65. Preparing the Councils Local Housing Strategy, Strategic Housing Investment Plan and other strategic documents and monitoring their implementation.
66. Assessment of general needs and special housing needs in liaison with other services and agencies.
67. Maintaining all buildings, furniture, equipment etc under his/her control and ensuring safety checks and procedures etc. are undertaken.
68. Ensuring proper arrangements are in place in respect of statutory compliance for housing properties in relation to issues such as Asbestos, Legionella etc.
69. Act as the Proper Officer in terms of Section 193 and 194 of the Act for the purposes of granting leases and serving notices all in terms of Part 3 of the Housing (Scotland) Act 1987.
70. To provide services to travelling persons including the management and maintenance of a site for travelling persons.
71. Managing and supporting unauthorised encampments of gypsies, travellers and others within North Ayrshire.
72. Authorised to appoint, and authorise as appropriate, officers to ensure that enforcement and administration of statutory responsibilities.
73. Authorised to determine applications for repair and improvement grants in line with the provisions of the Housing (Scotland) Act 2001 and related legislation and Council policy and procedure.
74. In consultation with the Head of Democratic Services to serve notices and undertake court proceedings to recover possession of heritable property or arrears of rent.
75. Supporting the provision of good quality temporary and interim accommodation for vulnerable households including, women experiencing violence, homeless people and young people leaving care in line with the Unsuitable Accommodation Order 2004 as amended.
76. Authorised to provide Housing Options Advice and Information in line with Statutory Guidance.
77. Authorised to facilitate access to Private Sector Housing including the provision of Rent Deposit Guarantees.
78. Authorised to provide Housing Support in line with the Housing Support Duty 2013 in line with Statutory Guidance.
79. Authorised, as proper officers in terms of s338 of the Housing (Scotland) Act 1987, to assess property condition in relation to the tolerable standard".

## **Community Safety and Public Protection**

79. To install and manage public and corporate close circuit television (CCTV) in accordance with relevant legislation.
80. Carry out any duties required in relation to antisocial behaviour in terms of the Antisocial Behaviour etc. (Scotland) Act 2004.

### **Building Standards**

81. Authorised to carry out all Building Standards functions of the Council in terms of the following legislation: -
  - The Building (Scotland) Act 2003
  - The Building Standards (Scotland) Regulations 2004
  - The Civic Government (Scotland) Act 1982
  - The Licensing (Scotland) Act 2005
82. Exercise the functions of the Council in relation to granting Building Warrants ensuring that the building regulations for the construction of new buildings and for the alteration, extension, conversion or demolition of existing buildings are met.
83. Exercise the functions of the Council in relation to defective and dangerous buildings in accordance with sections 28, 29 & 30 of the Building (Scotland) Act 2003.
84. Evacuate buildings and carry out works in case of immediate danger where necessary in accordance with section 42 and section 29 of the Building (Scotland) Act 2003.
85. Exercise the functions of the Council in relation to compliance and enforcement of unauthorised works and require buildings to comply with Building Standards Regulations.
86. To assist in the determination of applications for Houses in Multiple Occupation lodged under the Civic Government Scotland Act 1982.
87. To assist the Licensing Authority and other Services with the Short-Term Let Licensing scheme under the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32
88. To develop programmes and projects with appropriate partners which support NA's economic priorities and to secure funds from the European Union (ERDF, ESF) or any replacement thereof, including the Shared Prosperity Fund..
89. To manage European (or any replacement thereof including the Shared Prosperity Fund) funded programmes and ensure that delivery is compliant with the terms of the funding agreement and Scottish or UK Government rules.
90. To authorise and apply for external funding that supports the economic development, growth or regeneration of North Ayrshire.
91. To authorise grants and loans to support growth, sustainment and development of local businesses and organisations and in accordance with the objectives of the North Ayrshire Economic Development and Regeneration Strategy and the Ayrshire Regional Economic Strategy.

92. To manage the Employability Services of the council, including entering into contracts with third party providers and potential employers and to offer employment related advice and assistance.
93. To manage the Council's Modern Apprentice programme, Supported Employment Programme, Skills for Life programmes and other employability programmes supporting people into and sustaining employment in the Council and or other employers.
94. To manage funded employability programmes, such as – Better Off North Ayrshire, including entering into contracts with third party providers and to offer money and household budgetary related advice and assistance.
95. To authorise and provide grants within budget parameters to support business start-up, growth and sustainability
96. To manage the Councils business loan programme via West of Scotland Loan Fund and Business Loans Scotland
97. To manage and deliver the Councils approved International Strategy
98. To manage and deliver the Councils Social Enterprise Strategy
99. To develop the Team North Ayrshire Approach to business development and. work with partners to deliver increased support to business.
100. To deliver the services as set out in the Scottish Government approved Business Gateway Contract for North Ayrshire
101. To respond to inward investment enquiries that have potential to bring new jobs to NA.
102. To promote North Ayrshire and its specific sites and locations for new business investment.
103. To commission and provide economic research, strategy and evidence to support the development of Council and Partnerships strategies and policy.
104. To participate in research and studies.
105. To develop economic strategy for the Council and partners.
106. To develop the Council's ambitions for Community Wealth Building (CWB) including support for the work of the CWB Commission, implementation of the Community Wealth Building Strategy and development of Ayrshire Growth Deal CWB proposals.
107. To promote the economic needs of North Ayrshire and inform future government policy and priorities including replacement EU funds and national infrastructure investment decisions.

## Planning

The Scheme of Delegation is prepared in accordance with the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, and with the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

108. Notwithstanding the provisions of Section 50G (2) of the Local Government (Scotland) Act 1973, in terms of Regulation 3 of the Town and Country Planning (Scheme of Delegation and Local Review Procedure (Scotland) Regulations 2013 the following functions are hereby delegated, namely, the determination of planning applications for Local Developments as defined in Regulation 2(2) of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, as provided for in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as the "1997 Act") excepting always therefrom the applications where the Planning Authority themselves decide to determine the application in terms of Section 43A(6) of the 1997 Act. Planning Committee Call-in Procedures are more specifically detailed in paragraph 26.3 of the Standing Orders for Meetings and Proceedings of the Council.
109. Where otherwise not provided for, to determine applications in terms of Part III (Development Management) of the 1997 Act as amended where: -
- a. the determination is not contrary to the Development Plan
  - b. a decision to grant permission for the proposed development would not be inconsistent with a previous refusal of the Council on applications relating to the same site; or
  - c. all appropriate consultations have been carried out and all necessary notice has been given and no material planning objections have been received: -
    - from members of the public
    - from other services of the Council
    - from any Community Council, and
    - from any other public authority concerned, any of which cannot be resolved by conditions or amended proposals.
110. To administer the provision of Part VI (Enforcement) and Part VII (Trees) of the 1997 Act and to determine applications.
111. Decline to determine an application in accordance with Section 39 of the 1997 Act relating to similar applications submitted within two years of a refusal or appeal dismissal.
112. Vary planning permissions granted where the variation sought is considered not to be material. Alter or add conditions to applications which the relevant Committee has decided it is minded granting, where such changes are required as a result of subsequent responses from statutory or technical consultees and which do not raise significant new issues requiring to be considered by the Committee.
113. Agree the discharge of planning conditions where the terms of the condition have been fulfilled.
114. To determine any application for advertisement consent under Regulations in terms of Section

182 of the 1997 Act to the displays of advertisements.

115. Subject to any condition considered appropriate to determine any submission required by a Development Order or by conditions imposed on the grant of planning permission.
116. To determine applications for listed building consent and conservation area consent in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant Regulations.
117. Issue decision notices where the Scottish Ministers have made a Direction requiring the Planning Authority to refuse an application and where the Planning Authority has accordingly no alternative.
118. Evaluate applications and determine whether an Environmental Impact Assessment is required and where so, scope.
119. Issue planning contravention notices where information is required to establish whether a breach of planning control has occurred and Breach of Condition Notices where an applicant has failed to comply with a condition of a Planning Permission or other consent.
120. Determine whether or not to grant prior approval of the siting, design or external appearance of telecommunication masts or demolition of dwelling houses, which thereby constitutes permitted development.
121. Make observations on behalf of the Planning Authority on routine proposals by statutory undertakers or on routine consultations to the Council as Planning Authority.
122. Determine applications for certificate for proposed and existing lawful use and development.
123. Determine applications for hazardous substance consent.
124. Authorise minor amendments to Section 75 Obligations where the change sought is not considered material and where such a change accords with any policy or decision of the Council.
125. Represent the Council at Inquiries or Hearings to the Scottish Ministers under the Planning Legislation.
126. Confirm provisional Tree Preservation Orders, where no objections have been received. Authorise grants, where contained within existing budgets for listed buildings, properties in the conservation areas and externally supported schemes.
127. Authorise grants within policy and budget for improvements to landscape and the environment.
128. Respond to consultations on planning applications from neighbouring planning authorities and make observations on consultations to the Council as Planning Authority.
129. Prepare and issue documents as part of the Local Development Plan process following formal approval of the various stages as set out in Part 2 of the Town and Country Planning (Scotland) Act 1997, as amended.

130. Maintain statutory registers and lists.
131. To respond on behalf of the Council to Historic Buildings and Monuments Directorate regarding a listing of buildings or architectural or historic interest.
132. To respond on behalf of the Council to the Forestry Commission regarding consultations on forestry applications.
133. To respond to consultations from adjoining Councils regarding plans or planning applications in their area.
134. To determine applications under the High Hedges (Scotland) Act 2014.
135. To exercise the functions of the Council under Section 85 and Section 97 relating to street numbering in terms of Civic Government (Scotland) Act 1982 (street naming determined by Committee).
136. To exercise the functions delegated to the Council under sections 5,8,11 and 16 of the Marine (Scotland) Act 2010, namely the preparation, amendment, and review of a regional marine plan and monitoring of implementation and periodical reporting on such regional marine plan
137. In relation to a Regional Spatial Strategy, to prepare and issue documents and to keep under review in terms of Section 4ZA-C of the Town and Country Planning (Scotland) Act 1997, (or where the Strategy relates to more than one planning authority area, to jointly do so in liaison with those other Planning Authorities);
138. To support local communities as required in the preparation or review of a Local Place Plan, in terms of section both 15 A of the Town and Country Planning (Scotland) Act 1997, and any regulations made thereunder.
139. In relation to an Open Space Strategy, to prepare and issue documents and to keep under review in terms of Section 3G of the Town and Country Planning (Scotland) Act 1997;
140. In relation to Master Plan Consent Areas, to prepare and issue documents and to keep under review in terms of Section 54A-F of the Town and Country Planning (Scotland) Act 1997;
141. In relation to a Forestry and Woodland Strategy to prepare and issue documents and to keep under review in terms of Section A159 of the Town and Country Planning (Scotland) Act 1997;

### **Building Standards**

142. Authorised to carry out all Building Standards functions of the Council in terms of the following legislation: -
  - The Building (Scotland) Act 2003
  - The Building Standards (Scotland) Regulations 2004
  - The Civic Government (Scotland) Act 1982
  - The Licensing (Scotland) Act 2005
143. Exercise the functions of the Council in relation to granting Building Warrants ensuring that the building regulations for the construction of new buildings and for the alteration, extension,

conversion or demolition of existing buildings are met.

144. Exercise the functions of the Council in relation to defective and dangerous buildings in accordance with sections 28, 29 & 30 of the Building (Scotland) Act 2003.
145. Evacuate buildings and carry out works in case of immediate danger where necessary in accordance with section 42 and section 29 of the Building (Scotland) Act 2003.
146. Exercise the functions of the Council in relation to compliance and enforcement of unauthorised works and require buildings to comply with Building Standards Regulations.
147. To assist in the determination of applications for Houses in Multiple Occupation lodged under the Civic Government Scotland Act 1982.
148. To undertake functions relating to the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987, the functions of the Council in relation to safety of covered spectator viewing facilities at or within sports ground in terms of the Fire Safety and Safety of Places of Support Act 1987.
149. Exercise the functions as Building Standards Authority in terms of issuing certificates of suitability under section 50 of the Licensing (Scotland) Act 2005.
150. Grant or refuse clearance certificate applications for building warrants under the Building (Scotland) Act 1959 and accept or reject certificates of completion under the Building (Scotland) Act 2003, subject to a right of appeal to the Sheriff Court.
151. Grant extensions to the life of building warrants.
152. Exercise the functions of the Council by maintaining and making available for public inspection at all reasonable times a Building Standards Register.
153. To respond on behalf of the Council, on matters relating to disability access in and around buildings, to the North Ayrshire Access Panel.
154. To determine all applications for raised structures in terms of section 89 of the Civic Government (Scotland) Act 1982
155. To manage the Safety Advisory Group and support the effective planning for significant events effecting North Ayrshire through effective liaison with partners.
156. To assist the Licensing Authority and other Services with the Short-Term Let Licensing scheme under the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32

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

157. To undertake the functions of the Council relating to Environmental Health and Trading Standards
158. To assist in the determination of applications lodged under the following statutes in conformity with Council or Licensing Board policies.

- a. Animal Health & Welfare (Scotland) Act 2006
- b. Civic Government (Scotland) Act 1982
- c. Control of Pollution Act 1974
- d. Environmental Protection Act 1990
- e. Environment Act 1995
- f. European Communities Act 1972
- g. Health and Safety at Work etc Act 1974
- h. Licensing (Scotland) Act 2005 (Section 50)
- i. Local Government (Scotland) Act 1973
- j. Local Government etc. (Scotland) Act 1994
- k. Local Government in Scotland Act 2003
- l. Tobacco & Primary Medical Sales (Scotland) Act 2010
- m. Petroleum (Consolidation) Regulations 2014
- n. Tobacco & Primary Medical Sales (Scotland) Act 2010
- o. Explosives Regulations 2014
- p. Poisons Act 1972

159. To immediately suspend licenses where necessary for the purposes of public safety.

160. To authorise officers to exercise the powers and duties of an inspector and authorised officer under the legislation listed in paragraph 51 hereof (including the powers of entry, inspection, sampling, purchasing of goods and services, opening containers, seizure, serving notices and initiating prosecutions where appropriate) and including the power to issue notices (including suspension notices, improvement notices, prohibition notices, emergency prohibition notices, abatement notices, enforcement notices, remediation notices and other such notices under the legislation detailed in the following paragraph).

161. To exercise the Trading Standards and Environmental Health functions of the Council in terms of the following legislation, including the provision of education, mediation or enforcement:

### **Consumer Protection**

- Consumer Rights Act 2015
- Timeshare Act 1992
- Unsolicited Goods and Services Act 1971
- Enterprise Act 2002 (Part 8)
- Consumers, Estate Agents and Redress Act 2007
- European Communities Act 1972

#### *Associated legislation made under this Act including:*

- Package Travel, Package Holidays and Package Tours Regulations 1992 Consumer Credit and Estate Agency
- Consumer Credit Act 1974
- Estate Agents Act 1979
- Consumers, Estate Agents and Redress Act 2007
- European Communities Act 1972

### **Consumer Safety**

- Consumer Protection Act 1987 (parts II & IV)
- Poisons Act 1972
- Medicines Act 1968 (ss53, 54 & 66)
- Motorcycle Noise Act 1987
- Tobacco Advertising and Promotion Act 2002
- Tobacco and Primary Medical Services (Scotland) Act 2010
- Health (Tobacco, Nicotine etc., and Care) (Scotland) Act 2016, Chapters 1 and 2
- Fireworks Act 2003
- Tobacco and Primary Medical Services (Scotland) Act 2010
- Fireworks Act 2003
- Antisocial Behaviour (Scotland) Act 2004 (ss122-125)
- Road Traffic Act 1988 (section 17)
- European Communities Act 1972

*Associated legislation made under this Act including:*

- General Product Safety Regulations 2005
- Construction Products Regulations 1991
- Chemicals (Hazard Information and Packaging for Supply) Regulations 2009
- Gas Appliances (Safety) Regulations 1995
- REACH Enforcement Regulations 2008
- Supply of Machinery (Safety) Regulations 1992
- Electromagnetic Compatibility Regulations 1992
- Personal Protective Equipment (EC Directive) Regulations 1992
- Electro-medical Equipment (EEC Requirements) Regulations 1988
- Recreational Craft Regulations 1996
- Simple Pressure Vessels (Safety) Regulations 1991
- Medical Devices Regulations 1994
- Pressure Equipment Regulations 1999
- Radio Equipment and Telecommunications Terminal Equipment Regulations 2000
- Boiler (Efficiency) Regulations 1993 Unfair Trading
- TradeMarks Act 1994
- Copyright, Designs and Patents Act 1988
- Copyright etc and TradeMarks (Offences and Enforcement) Act 2002
- Prices Acts 1974 and 1975
- Video Recordings Act 1984 by virtue of Video Recordings Act 2010
- Housing (Scotland) Act 2006 (Part 3)
- Olympic Symbol (Protection) Act 1995
- Energy Act 1976
- Education Reform Act 1988 (ss214-216)
- Telecommunications Act 1984 (s30)
- Hallmarking Act 1973
- European Communities Act 1972

*Associated legislation made under this Act including:*

- Consumer Protection from Unfair Trading Regulations 2008
- Business Protection from Misleading Marketing Regulations 2008 o Textile Products (Indications of Fibre Content) Regulations 1986 o Footwear (Indications of Composition) Labelling Regulations 1995 o Provision of Services Regulations 2009

## **Agriculture**

- Agriculture Act 1970 (Part IV)
- Feed Hygiene Regulation 183/2005
- Agriculture (Miscellaneous Provisions) Act 1968
- European Communities Act 1972

*Associated legislation made under this Act including:*

- Feed (Hygiene and Enforcement) (Scotland) Regulations 2005
- Official Food and Feed Controls (Scotland) Regulations 2009
- Animal By-Products (Enforcement) (Scotland) Regulations 2011  
Animal Health
- Animal Health Act 1981
- Protection of Animals (Scotland) Act 1912
- Animal Health and Welfare (Scotland) Act 2006
- Bluetongue (Scotland) Order 2008 [Article 3(2)]
- Bluetongue (Scotland) Amendment Order 2008 [Article 16A (2)]
- Welfare of Farmed Animals (Scotland) Regulations 2010
- Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006
- European Communities Act 1972

*Associated legislation made under this Act including:*

- Animal By-Products (Enforcement) (Scotland) Regulations 2011
- The Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008.

## **Metrology**

- Weights and Measures Acts 1976 and 1985
- European Communities Act 1972

*Associated legislation made under this Act including:*

- Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006
- Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006
- Measuring Instruments (Automatic Catchweighers) Regulations 2006
- Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006
- Measuring Instruments (Beltweighers) Regulations 2006
- Measuring Instruments (Capacity Serving Measures) Regulations 2006
- Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006
- Measuring Instruments (Material Measures of Length) Regulations 2006
- Measuring Instruments (Cold-water Meters) Regulations 2006
- Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006
- Measuring Instruments (Non-Prescribed Instruments) Regulations 2006  
Non-automatic Weighing Instruments
- Non-automatic Weighing Instruments Regulations 2000

## **Environment**

- Clean Air Act 1993 (s30) including the determination of chimney heights, implementation of smoke control areas and prevention of emission of dark smoke and smoke nuisance
- Food and Environment Protection Act 1985 (Part III)
- Control of Pesticides Regulations 1986
- Pesticides Act 1988
- European Communities Act 1972

*Associated legislation made under this Act including:*

- Packaging (Essential Requirements) Regulations 2003
- Plant Protection Products (Scotland) Regulations 1995
- Energy Information (Washing Machines) Regulations 1996
- Energy Information (Refrigerators and Freezers) Regulations 1997
- Energy Information (Dishwashers) Regulations 1999
- Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005
- Energy Information Regulations 2011.
- Control of Pollution Act 1974
- Noise and Statutory Nuisance Act 1993
- Radioactive Substances Act 1993
- Antisocial Behaviour (Scotland) Act 2004 Part 5 Noise
- Water Services etc. (Scotland) Act 2005 in relation to odour from sewerage treatment plants
- Environmental Protection Act 1990
- Environment Act 1995
- Waste (Scotland) Regulations 2012
- Clean Air Act 1993
- Air Quality Limit Values (Scotland) Regulations 2003
- The Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003
- Food and Environment Protection Act 1985 Health and Safety
- Petroleum (Consolidation) Regulations 2014
- Health and Safety at Work etc. Act 1974 and Regulations made thereunder
- Dangerous Substances and Explosive Atmospheres Regulations 2002
- Explosives Act 1875
- Manufacture and Storage of Explosives Regulations 2005
- Biocidal Products Regulations 2001
- European Communities Act 1972
- Health and Safety at Work etc. Act 1974
- Offices Shops and Railway Premises Act 1963
- Radioactive Substances Act 1993

*Associated legislation made under this Act*

## **Food Safety**

- Food and Environmental Protection Act 1985
- Food Safety Act 1990
- Food Hygiene (Scotland) Regulations 2006

- The Official Feed and Food Control (Scotland) Regulations 2009
- The Food Information (Scotland) Regulations 2014 Food (Scotland) Act 2015
- The Food Information (Scotland) Regulations 2014
- The Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018
- European Communities Act 1972

*Associated legislation made under this Act including:*

- The TSE (Scotland) Regulations 2010
- The Trade in Animal and Related Products (Scotland) Regulations 2012
- The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2006
- The Products of Animal Origin (Import and Export) Regulations 1996
- The Contaminants in Food (Scotland) Regulations 2013
- Animal By-products (Enforcement) (Scotland) Regulations 2013 Public Health
- Public Health etc. (Scotland) Act 2008
- National Assistance Act 1948
- Sewerage (Scotland) Act 1968
- Prevention of Damage by Pests Act 1949
- Dog Fouling (Scotland) Act 2003
- Smoking Health and Social Care (Scotland) Act 2005
- The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
- International Health Regulations 2005
- Public Health (Ships) (Scotland) (Amendment) Regulations 2007
- Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007
- Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2006
- Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016
- Burial & Cremation (Scotland) Act 2016 (Section 87) Housing
- Housing (Scotland) Act 1987
- Housing (Scotland) Act 2006

### **Licensing – Animal**

- Pet Animals Act 1951/83
- Animal Boarding Establishments Act 1963
- Breeding of Dogs Act 1973/91
- Dangerous Wild Animals Act 1976
- Riding Establishments Act 1964/70
- Zoo Licensing Act 1981
- Licensing of Animal Dealers (Young Cats & Dogs) (Scotland) Regulations 2009 Licensing - Leisure
- Caravan Sites and Control of Development Act 1960
- Cinemas Act 1985
- The Licensing of Relevant Permanent Sites (Scotland) Regulations 2016 Licensing - Safety
- Petroleum (Consolidation) Regulations 2014
- Manufacture and Storage of Explosives Regulations 2005
- Poisons Act – 1972 Licensing Food
- Deer (Scotland) Act 1996

- Game Licences Act 1860

### **Licensing - Civic Government (Scotland) Act 1982**

- Civic Government (Scotland) Act 1982 – Parts I, II, III, V and IX
- Theatres Act 1968

168. Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32

### **Public Health Licensing**

- Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006.
- Civic Government (Scotland) Act 1982 Part II (Public Entertainment Licences– Sunbeds)
- The Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009

### **Water**

- Water (Scotland) Act 1980
- Water Act 1989
- Water Services (Scotland) Act 2005
- Private Water Supplies (Scotland) Regulations 2006The Water Supplies (Water Quality) (Scotland) Regulations 2014
- The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017

### **Contaminated land**

- Environmental Protection Act 1990
- Environment Act 1995
- Control of Pollution Act 1974
- Contaminated Land (Scotland) Regulations 2000/2005 Dog Control
- Environmental Protection Act 1990 (Sections 149 – 151)
- Control of Dogs (Scotland) Act 2010
- Dog Fouling (Scotland) Act 2003
- The Microchipping of Dogs (Scotland) Act 2016

### **Private Landlord Registration**

- The Private Rented Housing (Scotland) Act 2011

168. To undertake the functions of the Council for the calibration and certification services to industry and commerce.

169. To undertake the functions of the Council for securing compliance with trades description and consumer product safety issues.

170. To undertake the public health functions of the Council under the Public Health (Scotland) Act, including pest control duties of the Prevention of Damage by Pests Act 1949.

171. To undertake the functions of the Council relating to communicable diseases.
172. To advise the Executive Director of Place to appoint the Chief Officer and/or individual officers of Trading Standards Scotland as officers of the Council, whether in perpetuity, on a time limited basis or for the duration of a particular operation. This shall include power to appoint such officers retrospectively to the date of approval of this provision (27 June 2018).
173. Pursuant to section 56(1) of the Local Government (Scotland) Act 1973, to authorise the Executive Director of Place to authorise the Chief Officer and/or individual officers of Trading Standards Scotland, whether in perpetuity, on a time limited basis or for the duration of a particular operation : (i) to discharge such of the functions relating to trading standards and consumer protection, including under the legislation set out in paragraph 65 and 72 hereof as may be listed by the Executive Director in such authorisation ; and (ii) to act as an authorised officer for the purposes of discharging those functions, including for the purposes of the said legislation, and in fulfilment of all functions granted to the Council in respect of trading standards and consumer protection, including under the said legislation.
174. Duty or Powers to Enforce:
- Advanced Television Services Regulations 2003
  - Aerosol Dispensers Regulations 2009
  - Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013
  - Biofuel (Labelling) Regulations 2004
  - Business Protection from Misleading Marketing Regulations 2008
  - Chemicals (Hazard Information and Packaging for Supply) Regulations 2009
  - Children and Families Act 2014 (The Standardised Packaging of Tobacco Regulations 2015)
  - Children and Young Persons (Protection from Tobacco) Act 1991
  - Cigarette Lighter Refill (Safety) Regulations 1999
  - Sections 5 and 27E to 27G of the Civic Government (Scotland) Act 1982
  - Construction Products Regulations 2013
  - Consumer Contracts (Information, Cancellations and Additional Charges) Regulations 2013
  - Consumer Credit Act 1974
  - Consumer Credit Act 2006
  - Consumer Protection (Distance Selling) Regulations 2000
  - Consumer Protection Act 1987
  - Consumer Protection from Unfair Trading Regulations 2008
  - Consumer Rights (Payment Surcharges) Regulations 2012
  - Consumer Rights Act 2015
  - Copyright, Designs and Patents Act 1988
  - Cosmetic Products Enforcement Regulations 2013
  - Crystal Glass (Descriptions) Regulations 1973
  - The Dangerous Substances and Explosive Atmospheres Regulations 2002
  - Detergents Regulations 2010
  - Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures,

- Sections 214 and 215 of the Education Reform Act 1988
- Electrical Equipment (Safety) Regulations 1994
- Electromagnetic Compatibility Regulations 2006
- Electromagnetic Compatibility Regulations 2016
- Electronic Commerce (EC Directive) Regulations 2002
- Energy Act 1976
- Energy Information Regulations 2011
- Part 8 of the Enterprise Act 2002
- Estate Agents Act 1979
- Explosives Acts 1875 and 1923
- Explosives Regulations 2014
- Financial Services (Distance Marketing) Regulations 2004
- Financial Services Act 2012
- Financial Services Act 2012 (Consumer Credit) Order 2013
- Financial Services and Markets Act 2000
- Fireworks Act 2003
- Fireworks Regulations 2004
- Food Imitations (Safety) Regulations 1989
- Footwear (Indication of Composition) Labelling Regulations 1995
- Furniture and Furnishings (Fire)(Safety) Regulations 1988
- Gas Appliances (Safety) Regulations 1995
- General Product Safety Regulations 2005
- Hallmarking Act 1973
- Intellectual Property Act 2014
- Medical Devices Regulations 2002
- Motor Fuel (Composition and Content) Regulations 1999
- Motor Vehicle Tyres (Safety) Regulations 1994
- Motorcycle Noise Act 1987
- Nightwear (Safety) Regulations 1985
- N-nitrosamines and N-nitrosatable Substances in Elastomer or Rubber Teats and Dummies (Safety) Regulations 1995
- Oil Heaters (Safety) Regulations 1977
- Olympic Symbol etc. (Protection) Act 1995
- Package Travel, Package Holidays and Package Tours Regulations 1992
- Packaging (Essential Requirements) Regulations 2015
- Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001
- Pedal Bicycles (Safety) Regulations 2010
- Personal Protective Equipment Regulations 2002
- Petroleum (Consolidation) Regulations 2014
- Plugs & Sockets etc. (Safety) Regulations 1994
- Poisons Act 1972
- Pressure Equipment Regulations 1999
- Price Indications (Bureau de Change) (No. 2) Regulations 1992
- Price Marking Order 2004
- Prices Act 1974
- Pyrotechnic Articles (Safety) Regulations 2015
- Radio Equipment and Telecommunications Terminal Equipment Regulations 2000
- REACH Enforcement Regulations 2008
- Recreational Craft Regulations 2004

- Regulation 765/2008/EC on Accreditation and Market Surveillance
- Rights of Passengers in Bus and Coach Transport (Exemption and Enforcement) Regulations 2013
- Sections 17 and 18 of the Road Traffic Act 1988
- Road Vehicles (Brake Linings Safety) Regulations 1999
- Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011
- Simple Pressure Vessels (Safety) Regulations 1991
- Simple Pressure Vessels (Safety) Regulations 2016
- Supply of Machinery (Safety) Regulations 2008
- Textile Products (Labelling and Fibre Composition) Regulations 2012
- The Electrical Equipment (Safety) Regulations 2016
- The Pressure Equipment (Safety) Regulations 2016
- The Psychoactive Substances Act 2016
- Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
- Toys (Safety) Regulations 2011
- Trade Descriptions Act 1968
- Trademarks Act 1994 Video Recording Acts 1984 and 2010
- Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012

175. To undertake relevant inspections for the licensing of caravan sites, riding establishments, animal boarding establishments, pet shops, zoos, keeping of wild animals, breeding of dogs and venison dealers, and relevant inspections under the Civic Government (Scotland) Act 1982.
176. To arrange for the burial or cremation of deceased persons in terms of the National Assistance Acts
177. To undertake all other functions of the Council relating to environmental health and trading standards.
178. To undertake all other functions of the Council as enforcing authority relating to health and safety of premises or services, excluding Council buildings or services.
179. To support the Council in promoting the Licensing Objectives of the Licensing (Scotland) Act 2005 as amended and supplemented by subsequent primary and secondary licensing legislation, whether through inspection of premises or otherwise.

### **Economic Development**

180. To lead and support the development of the Ayrshire Regional Economic Strategy
181. To develop Community Wealth Building activity across the 5 pillars – Fair Work, Plural Ownership of the economy, Land & Assets, Financial and Procurement locally and regionally.
182. To commission and provide economic research, strategy and evidence to support the development of Council and partnership strategies and policy.

183. To participate in research and studies
184. To develop economic strategy for the Council and partners.
185. To develop the ambitions for Community Wealth Building (CWB) including supporting the work of the CWB Commission and Expert Panel.
186. To promote the economic needs of North Ayrshire to influence and inform future government policy and priorities.
187. To lead the development of economic development programmes and projects with appropriate partners which support the Council's NA's economic priorities. and to secure funds from the European Union (ERDF, ESF) or any replacement thereof, including the Shared Prosperity Fun
188. To manage European and the (or any replacement thereof including the Shared Prosperity Fund) funded programmes and ensure that delivery is compliant with the terms of the funding agreement and Scottish or UK Government rules.
189. To authorise and apply for external funding that supports the development of an inclusive economy economic development, growth or regeneration of North Ayrshire.
190. To authorise grants and loans to support growth, sustainment and development of local businesses and organisations and in accordance with the objectives of the North Ayrshire Community Wealth Building, Regeneration Delivery Plan, and North Ayrshire Economic recovery and Renewal Plans and forthcoming new Regional Economic Strategy. Economic Development and Regeneration Strategy and the Ayrshire Regional Economic Strategy.
191. To develop and manage the Employability Services of the council, including entering into contracts with third party providers and potential employers and to offer employment related advice and assistance.
192. To develop and manage the Council's Modern Apprentice programme, Supported Employment Programme, Skills for Life programmes and other employability programmes supporting people into and sustaining employment in the Council and or other employers.
193. To manage funded employability programmes, such as – Better Off North Ayrshire, including entering into contracts with third party providers and to offer money and household budgetary related advice and assistance.
194. To authorise and provide grants within budget parameters to support business start-up, growth and sustainability
195. To manage the Councils business loan programme via West of Scotland Loan Fund and Business Loans Scotland.

196. To deliver the services as set out in the Scottish Government approved Business Gateway Contract for North Ayrshire
197. To respond to inward investment enquiries that have potential to bring new jobs to North Ayrshire.
198. To promote North Ayrshire and its specific sites and locations for new business investment.
199. To lead the business case development and project management of Ayrshire Growth Deal regional projects on behalf of the 3 Council's including : Working for a Healthy Economy, Community Wealth Building, Regional Skills Investment Fund and Fair Work Ayrshire. manage and deliver the Councils approved International Strategy

### **Council's Commercial Property Portfolio**

200. In respect of the Council's commercial property portfolio (to include designated industrial, office, commercial and retail space), to authorise all purchases and sales up to the value of THREE HUNDRED THOUSAND POUNDS (£300,000) or leases with an annual rent of ONE HUNDRED AND TWENTY THOUSAND POUNDS (£120,000), renewals of leases, rent reviews, rent free periods and assignments of sub leases in accordance with the Council's Estates Management Policy, Standing Orders Relating to Contracts, any scheme of sub-delegation prepared by the Executive Director setting out the level of employee able to authorise particular transactions, and the provisions of the Local Government (Scotland) Act 1973 and regulations made thereunder.
201. Authorised to agree commercial property sub-leases and assignments of leases on receipt of statutory references on completion of appropriate checks to ensure suitability of the incoming tenant.
202. Authorise in respect of commercial property leases, sub-leases to consent to rent free periods.
203. Authorise to terminate commercial leases at their natural expiry date and at any break point detailed in lease agreement and to agree terms for the renunciation of leases prior to their natural expiry.
204. Authorise to agree commercial leases rentals at review periods.
205. Authorise to agree to extensions and variations to existing commercial lease agreements, subject to the extensions or variations not extending the term of the existing lease by a period in excess of 10 years.
206. Authorise, where arrears of rent have risen to instruct the Head of Democratic Services to raise appropriate action necessary in order to recover the arrears and/or to secure vacant position of the heritable property and if any other term of lease has been breached, to instruct the Head of Democratic Services to use the standard breach of contract remedies available which she/he considers appropriate.

207. Authorised to proceed with the repairs to land, commercial and industrial premises in the ownership of the Council subject to budget provisions.
208. Authorised to determine requests for rent abatement for commercial properties and tenants.
209. Authorised to provide landlords consent on sub-leases to Council owned commercial properties and to authorise contributions to capital incentive packages up to a value of £75,000 if within budget provision.
210. Authorised to develop new commercial property proposals and enter into associated development agreements.

## Regeneration

211. To promote economic development and regeneration within North Ayrshire, in doing so working with local stakeholders and national agencies or bodies who can help deliver investment priorities through funding or policy support.
212. To develop and implement significant physical interventions within town centres including for leisure, employment and other activities that may generate new activity and investment, focusing on town centres or other identified priorities such as our major Harbours
213. To develop and implement local regeneration projects in line with the Regeneration Delivery Plan and relevant strategies including Conservation Area Regeneration Schemes, shopfront improvement schemes, public realm schemes and area based masterplans.
214. To develop proposals and authorise applications for external funding subject to budget being available for any required match-funding.
215. To authorise grants, where contained existing budgets for community led regeneration projects, listed buildings, properties in conservation areas and externally supported schemes.
216. To authorise grants within policy and budget for improvements to landscape and the environment.
217. To develop and implement the Vacant and Derelict Land Strategy.
218. To develop proposals and authorise the expenditure of Vacant and Derelict Land Funding and Place Based Investment Programme secured from the Scottish Government.
219. To implement the Council's statutory responsibilities and powers under the Land Reform (Scotland) Act 2003
220. To promote outdoor access, active travel and sustainable travel within North Ayrshire.
221. To develop and implement the Local Transport and Active Travel strategy including implementation of active travel and transport projects.
222. To construct and maintain paths, to produce a Core Paths Plan and other duties in terms of the Land Reform (Scotland) Act 2003.
223. Assert and protect rights of way in terms of the Countryside (Scotland) Act 1967 and access rights in terms of the Land Reform (Scotland) Act 2003.
224. Authorise Access Right Exemption Orders in terms of s11 of the Land Reform (Scotland) Act 2003 where the period of exemption is 5 days or less in consultation with the Head of Democratic Services.
225. Authorise and apply for grants within policy and budget to improve access to the

- 227, To exercise the strategic planning of functions detailed in the following legislation, any subordinate legislation made thereunder and any subsequent or similar legislation or replacing or expanding legislation, including service of any notices required thereunder:-
- Roads (Scotland) Act 1984
  - Transport Scotland Act 2019
  - Security for Private Road Works (Scotland) Regulations 1985
  - To carry out the function of the Council (including maintaining registers, inspecting and enforcing) in terms of the Reservoirs Act 1975
228. Authorised to respond to consultation for applications for planning development control where these relate to roads and active travel.
229. Carry out the functions of the Council under the Transport (Scotland) Act 2019 and associated legislation and amendments, including enforcement and imposition of penalties as prescribed in the Act and the relevant Code of Practice.
230. Issue and otherwise deal with road construction consents and road bonds in terms of section 21 of the Roads (Scotland) Act 1984 and the Security for Private Road Works (Scotland) Regulations 1985.
231. To support the development of Business Improvement Districts.
232. To promote the Ayrshire Growth Deal including development of businesses cases for investment.
233. To develop and implement i3's investment strategy and plans.
234. To develop and implement significant physical interventions within town centres including for leisure, employment and other activities that may generate new activity and investment, focusing on town centres or other identified priorities such as our major Harbours.
235. To develop and implement local regeneration projects including Conservation Area Regeneration Schemes, shopfront improvement scheme, public realm schemes and area-based masterplans.
236. To develop proposals and authorise applications for external funding subject to budget being available for any required match-funding.
237. To authorise grants, where contained within existing budgets for listed buildings, properties in conservation areas and externally supported schemes.
238. To authorise grants within policy and budget for improvements to landscape and the environment.

239. To develop proposals and authorise the expenditure of Vacant and Derelict Land Funding secured from the Scottish Government.
240. To promote outdoor access and active travel within North Ayrshire.
241. Implementation of active travel and transport projects as set out in relevant strategies
242. To construct and maintain paths, to produce a Core Paths Plan and other duties in terms of the Land Reform (Scotland) Act 2003.
243. Assert and protect rights of way in terms of the Countryside (Scotland) Act 1967 and access rights in terms of the Land Reform (Scotland) Act 2003.
244. Authorise and apply for grants within policy and budget to improve access to the countryside.
245. To exercise the strategic planning of functions detailed in the following legislation, any subordinate legislation made thereunder and any subsequent or similar legislation or replacing or expanding legislation, including service of any notices required thereunder: -
- a. Coast Protection Act 1949,
  - b. Roads (Scotland) Act 1984,
  - c. Roads Traffic Regulation Act 1984,
  - d. Disabled Persons Parking (Scotland) 2009,
  - e. Flood Prevention (Scotland) Act 1961
  - f. Flood Prevention and Drainage (Scotland) Act 1997,
  - g. Flood Risk Management (Scotland) Act 2009.
  - h. Transport (Scotland) Act 2005
  - i. New Roads and Street Works Act 1991
  - j. Security for Private Road Works (Scotland) Regulations 1985
  - k. To carry out the function of the Council (including maintaining registers, inspecting and enforcing) in terms of the Reservoirs Act 1975.
246. Authorised in terms of the Health and Safety at Work Act 1974 to carry out all duties set out in the statements of responsibilities for (health, safety and welfare in places of work) and the general statement of policy and health and safety at work issued in 1985 as amended.
247. Authorised where appropriate to enter objections on behalf of the Council to applications for goods of vehicles operator's licences under section 93 of the Transport Act 1968.
248. Authorised to respond to consultation for applications for planning development control where these relate to roads and flooding issues.
249. Carry out the functions of the Council under the Transport (Scotland) Act 2005 and

associated legislation and amendments, including enforcement and imposition of penalties as prescribed in the Act and the relevant Code of Practice

Issue and otherwise deal with road construction consents and road bonds in terms of section 21 of the Roads (Scotland) Act 1984 and the Security for Private Road Works (Scotland) Regulations 1985.

250. To support the development of Business Improvement Districts.

## **11. Director of Growth and Investment**

The Director of Growth and Investment has overall responsibility for the following: -

- To provide strategic leadership to explore and maximise investment to support economic growth.
- To provide strategic leadership to effectively maximise the opportunity of the Ayrshire Growth Deal, especially in relation to the North Ayrshire strategic projects including Hunterston, i3, Great Harbour, Ardrossan, Marine Tourism and the Fibre Optic Cable.
- To lead and develop effective strategic partnerships locally, regionally and nationally.

### **Tourism and the Coastal Economy**

1. To ensure the development and delivery of a tourism strategy which takes account of the special attributes of North Ayrshire, for example, but not solely, the coastal economy, and to consult with industry and community partners to develop and agree action plans to deliver these priorities.
2. To develop tourism projects and proposals.
3. To develop proposals and authorise applications for external funding in support of delivery of our tourism strategy and the development of the coastal economy.
4. To develop investment and regeneration plans for Great Harbourside (Irvine and Ardeer).
5. To develop investment plans to support marine tourism in key locations.
6. To develop tourism events strategies, such as the Year of Coast and Waters 2020.
7. To promote the Ayrshire Growth Deal including development of business cases for investment.
8. To identify and promote opportunities for commercial investment linked to our tourism and coastal regeneration priorities.

## **12. DUTIES OF STATUTORY OFFICERS**

### **A. HEAD OF PAID SERVICE**

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

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

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

#### Delegations to the Post

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

- a) To ensure the effective co-ordination of the discharge by the authority of its different functions.
- b) To assess the number and grades of employees required by the authority for the discharge of its functions.
- c) To ensure the effective organisation of the authority's employees.
- d) To ensure that proper arrangements are in place for the appointment and proper management of the authority's employees.
- e) To make a statutory report to the full Council where considered appropriate to do so in respect of the matters in (a) to (d) above.

## **B. MONITORING OFFICER**

The Monitoring Officer is a statutory appointment by the Council by virtue of Section 5 of the Local Government and Housing Act. The Council has resolved that the Monitoring Officer is the Head of Democratic Services. North Ayrshire Integration Joint Board has also resolved that the Head of Democratic Services will have a similar role as its Standards Officer under the Ethical Standards in Public Life etc. (Scotland) Act 2000.

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

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

Although a statutory appointment, the law does not require the Monitoring Officer to hold any specific qualification, and in particular, they do not require to be a solicitor or advocate. However, the recommendation of Audit Scotland is that the post holder should be in a position of sufficient seniority within the Council to enable them to carry out their statutory responsibilities effectively.

This means that, irrespective of the substantive post which the Monitoring Officer holds in the Council, they will either be a member of the Council's Executive Leadership Team, or have direct access to the Council's Chief Executive, Executive Directors, Heads of Service and Legal Services Manager as they see fit.

### Delegated to the Post

The overall powers of the post are: -

- a) To ensure that the Council complies with the requirements of the law and any statutory Codes of Practice relevant to the carrying out of the Council's duties and the delivery of the Council's services.
- b) To ensure that, where any contravention of the law, Code of Practice or corporate governance system has arisen, or is likely to, appropriate advice is given to the Chief Executive and relevant senior officers of the Council regarding the mitigation, rectification or prevention of such contraventions.
- c) To draw to the attention of the Provost or any Convener, any motion or amendment which may contravene any law or code of procedure in order that the Provost or Convener can determine whether the motion or amendment will be considered by Council, committee etc.
- d) To make a statutory report to the full Council regarding any breach or potential breach of the law or statutory code of practice by the Council where it proves impossible to rectify or prevent such breach.
- e) To act as the Council's point of contact by the Public Standards Commissioner for Scotland and the Standards Commission for Scotland regarding complaints concerning alleged breaches of the Councillors' Code of Conduct.
- f) To carry out such investigations as the Chief Executive may determine as relevant to the Monitoring Officer's role.
- g) To obtain, at their discretion, the opinion of Counsel or external solicitors on any matter relevant to the Monitoring Officer's role.

- h) To provide appropriate advice to Elected Members and Council officers regarding the promotion of high standards of conduct and ensure that suitable training is given regarding compliance with the Code of Conduct for Councillors.
- i) To carry out such other duties compatible with the role of the Monitoring Officer as the Council may delegate, or as the Chief Executive may request, such as the investigation of a complaint to the Council alleging breach of the Councillors' Code of Conduct.

### Corporate Rights

The Monitoring Officer has the following rights in respect of the carrying out of their statutory role: -

- To have unqualified access to any information held by the Council and to any Officer of the Council who can assist in the discharge of their statutory role.
- To have access to all reports to the Council, its Committees, Sub-Committee, Joint Boards, Joint Committees and Working Groups, as he or she sees fit.

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

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

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

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

#### Delegated to the Post

The overall powers of the CFO post are:

- a) To lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.
- b) To lead and direct a finance function that is resourced and fit for purpose.
- c) To manage the Council's financial resources to ensure the delivery of strategic objectives.
- d) To be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer-term implications, opportunities and risks are fully considered, so that there is alignment with the authority's overall financial strategy.
- e) Corporate Accounting Arrangements – ensuring adequate systems of accounting control are maintained throughout the Council and that services conform with Council policy, legislation and codes of practice.
- f) Financial Regulations – maintaining a continuous review and submitting any changes, other than of a minor nature, to the Council's Cabinet for approval.
- g) General Service Capital Budget and General Fund Revenue Budget – preparing and monitoring in accordance with Financial Regulations.
- h) Housing Revenue Account and Capital Budget- preparing and monitoring in accordance with Financial Regulations.
- i) Administration of the Sundry Debtors System.
- j) Internal Audit - examination of the accounting, financial and other operations of the Council.
- k) Banking and Insurance Arrangements.
- l) Signing Operating and Finance Leases.
- m) Treasury Management - ensure that the Council's annual Treasury Management Plan complies with the Treasury Management Code, The CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code) and the Local Government Investments (Scotland) Regulations 2010.
- n) Payment Processing and Supplier Invoice Administration – In accordance with the Late Payments and Commercial Debts Act 1998.

## **D. CHIEF SOCIAL WORK OFFICER**

The Chief Social Work Officer is a statutory appointment by virtue of Section 3 of the Social Work (Scotland) Act 1968.

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

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

The Chief Social Work Officer is required by section 5(1) of the 1968 Act to carry out the duties of the post under the general guidance of the Scottish Ministers. The Scottish Ministers issued revised and finalised guidance in May 2016.  
<http://www.gov.scot/Publications/2016/07/3269/0>

To take any necessary action on behalf of the Council in terms of the Social Work (Scotland) Act 1968, the Mental Health (Scotland) Act 1984, the Children (Scotland) Act 1995, the National Health Service and Community Care Act 1990, the Adults with Incapacity (Scotland) Act 2000, the Housing (Scotland) Act 2001, the Community Care and Health (Scotland) Act 2002, the Homelessness (Scotland) Act 2003, the Mental Health (Care and Treatment) (Scotland) Act 2003, the Adoption and Children (Scotland) Act 2007 or generally any legislation concerning the Council's functions relating to the provision of Social Care Services.

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

### Delegated to the Post

The duties of the Chief Social Work Officer post are: -

1. To promote values and standards of professional practice, including all relevant national Standards and Guidance, and ensure adherence with the Codes of Practice issued by the Scottish Social Services Council for social service employers.
2. To work with Human Resources and responsible senior managers to ensure that all social service workers practice in line with the SSSC's Code of Practice and that all registered social service workers meet the requirements of the regulatory body;
3. To establish a Practice Governance Group or link with relevant Clinical and Care Governance arrangements designed to support and advise managers in maintaining and developing high standards of practice and supervision in line with relevant

guidance, including, for example, - the *Practice Governance Framework: Responsibility and Accountability in Social Work Practice* (SG 2011);

4. To ensure that the values and standards of professional practice are communicated on a regular basis and adhered to and that local guidance is reviewed and updated periodically.
5. To appoint Mental Health Officers under the Mental Health Acts (approval as Mental Health Officers is restricted to those members of staff who have satisfactorily completed the approved training course)
6. To provide professional leadership for social workers and staff in social work services and: -
  - a) To support and contribute to evidence-informed decision making and practice – at professional and corporate level – by providing appropriate professional advice;
  - b) To seek to enhance professional leadership and accountability throughout the organisation to support the quality of service and delivery;
  - c) To support the delivery of social work’s contribution to achieving local and national outcomes;
  - d) To promote partnership working across professions and all agencies to support the delivery of integrated services;
  - e) To promote social work values across corporate agendas and partner agencies.
7. To provide advice and contribute to decision-making in the Council and Health and Social Care Partnership in the context of-
  - a) Effective governance arrangements for the management of the complex balance of need, risk and civil liberties, in accordance with professional standards;
  - b) Appropriate systems required to 1) promote continuous improvement and 2) identify and address weak and poor practice; The development and monitoring of implementation of appropriate care governance arrangements;
  - c) Approaches in place for learning from critical incidents, which could include through facilitation of local authority involvement in the work of Child Protection Committees, Adult Support and Protection Committees and Offender Management Committees where that will result in the necessary learning within local authorities taking place;
  - d) Requirements that only registered social workers undertake those functions reserved in legislation or are accountable for those functions described in guidance;
  - e) Workforce planning and quality assurance, including safe recruitment practice, probation/mentoring arrangements, managing poor performance and promoting continuous learning and development for staff;
  - f) Continuous improvement, raising standards and evidence-informed good practice, including the development of person-centred services that are focussed on the needs of people who use services and support;
  - g) The provision and quality of practice learning experiences for social work students and effective workplace assessment arrangements, in accordance with the SSSC Code of Practice for Employers of Social Service Workers;
8. Decisions in relation to: -

- a) In terms of the Secure Accommodation (Scotland) Regulations 2013 whether to implement a secure accommodation authorisation in relation to a child (with the consent of a head of the secure accommodation), reviewing such placements and removing a child from secure accommodation if appropriate;
- b) The transfer of a child subject to a Supervision Order in cases of urgent necessity
- c) Acting as guardian to an adult with incapacity where the guardianship functions relate to the personal welfare of the adult and no other suitable individual has consented to be appointed;
- d) Decisions associated with the management of drug treatment and testing orders
- e) Carrying out functions as the appropriate authority in relation to a breach of supervised release order, or to appoint someone to carry out these functions and;
- f) Joint arrangements in co-operation with other authorities under the 2014 guidance on Multi Agency Public Protection Arrangements (MAPPA).

### Corporate Responsibilities

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

- To ensure compliance with the Council's statutory duties to prepare, publish and review plans for the provision of social work services.
- To promote, communicate, support and review values and standards of professional practice, and to ensure that they are adhered to.
- To establish, in conjunction with the Council's Executive Leadership Team, appropriate experience and qualified cover for the post of Chief Social Work Officer during the post-holder's absence or incapacity.
- To report to the Chief Executive any failure in the Council's corporate policy or governance arrangements designed to reflect the proper balance amongst need, risk and civil liberties in the provision and management of social work services.
- To report to the Chief Executive any weaknesses and failures in the systems in place to promote good practice and identify and address poor practice in the provision of social work services.
- To report and provide independent comment where necessary to the Chief Executive and Elected Members on the findings of significant case reviews and relevant performance reports and on any other social work-related issues.
- To provide an annual report to the Council on all of the statutory, governance and leadership functions of the role of the Chief Social Work Officer.

Document Control Summary:-		
Location:	I:\Committee Services\Publications\03 Scheme of Delegation to Officers	
Last Revised:	Revised By	Nature of Revision
May 2022	AC	Created for New Administration

## NORTH AYRSHIRE COUNCIL

18 May 2022

### North Ayrshire Council

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**Title:** Other Key Governance Documents

**Purpose:** To approve other key governance documents regulating the operation of the Council, its Committees and Officers

**Recommendation:** That the Council agrees:

- (a) to approve, with immediate effect:
  - (i) the Guidelines on Member/Officer Relations, attached at Appendix 1;
  - (ii) the Standing Orders for Contracts, attached at Appendix 2 and
  - (iii) the Financial Regulations, attached at Appendix 3

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### 1. Executive Summary

1.1 This report seeks approval by Council of the other key governance documents which regulate the operation of the Council, its Committees and Officers. These are as follows:

- Guidelines on Member/Officer Relations;
- Standing Orders for Contracts and
- Financial Regulations.

### 2. Background

2.1 Audit Scotland in their report “Roles and working Relationships – Are you Getting it Right?” stressed the importance of having governance arrangements that are fit for purpose and up-to-date. They note that such documents are critical in clarifying roles, responsibilities and expected behaviour and should be reviewed regularly. Good governance arrangements lead to sound decision-making. While the key governance documents detailed in Section 1.1 were all fully reviewed in the lifetime of the previous Council, the opportunity has been taken to bring them up to date.

## **Guidelines on Member/Officer Relations**

- 2.2 The Guidelines on Member/Officer Relations set out the way in which Members and Officers of the Council should behave towards one another. They define the roles and responsibilities of Members and Officers and incorporate the model Protocol for Relations between Councillors and Employees, which comprises Appendix A of the Councillors Code of Conduct. The previous Guidelines were found to be fit for purpose and no significant changes have been made to them.

## **Standing Orders Relating to Contracts**

- 2.3 The Council's procurement rules are set out in the Standing Orders relating to Contracts. The main revisals which have been made to the previous Contract Standing Orders are:
- Provision to permit acceptance of contracts of £500,000 or above in the Chief Executive's absence. Authorisation from the Chief Executive for such contracts is required prior to acceptance. It is proposed that subject to the agreement of the Portfolio Holder, the appropriate Chief Officer from the procuring Directorate, and the Senior Manager (Corporate Procurement), acceptance of the contract could be authorised in the Chief Executive's absence by an appropriate Executive Director (from out with the procuring Directorate) who must also consult with and gain approval of the Monitoring Officer or Chief Finance Officer.

## **Financial Regulations and Codes of Financial Practice**

- 2.4 The Financial Regulations and Codes of Financial Practice set out the expectations and responsibilities of Elected Members and Officers in relation to the proper administration of the Council's finances, as well as authorising the role of Internal Audit and its rights of access across the Council. They are supported by Codes of Financial Practice (COFP) which provide more detail on the requirements of the Council in relation to specific areas such as revenue and capital finance, treasurer management, risk and insurance and asset management.
- 2.5 In general, only minor revisions have been made to both documents relating to the deletion of the post of Head of Service (Recovery and Renewal) and updating the Code of Financial practice relating to salaries and wages to reflect the latest guidance on IR35 relating to off payroll working.

## **3. Proposals**

- 3.1 Council is invited (a) to approve with immediate effect:
- (i) the Guidelines on Member/Officer Relations, attached at Appendix 1
  - (ii) the Standing Orders for Contracts, attached at Appendix 2 and
  - (iii) the Financial Regulations, attached at Appendix 3 (comprising the Financial Regulations 2022 and Codes of Financial Practice 2022); and

## **4. Implications/Socio-economic Duty**

### **Financial**

4.1 Approval of the key governance documents is an essential component of the Council's financial governance arrangements.

### **Human Resources**

4.2 None arising from the recommendations of this report.

### **Legal**

4.3 Approval of the key governance documents is an essential component of the Council's legal and administrative arrangements.

### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

### **Climate Change and Carbon**

4.5 None arising from the recommendations of this report.

### **Key Priorities**

4.6 Clear, transparent governance arrangements promote good decision making. In turn, this supports the achievement of the Council's key priorities.

### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

## **5. Consultation**

5.1 There has been consultation with political Groups and Independent Members on the key governance documents. Executive Directors and relevant Officers have also been consulted as required.

Craig Hatton  
Chief Executive

For further information please contact **Aileen Craig, Head of Democratic Services**, on **01294 324125**.

### **Background Papers**

None

## **Guidelines for Member/Officer Relations**

(incorporating the Protocol on Member/Officer Relations from the Councillors' Code of Conduct)

**May 2022**

### **Why Have Guidelines?**

Guidelines are a positive tool to aid relations between Members and officers.

The key guiding principles are for officers and Members to:

- Work and communicate effectively with one another
- Act within the law and the Standing Orders of the Council
- Behave with mutual courtesy and respect
- Communicate effectively with one another
- Adopt a constructive approach to resolving differences and difficulties
- Work in the interests of North Ayrshire as a whole

The Guidelines also give advice on what to do when problems occur.

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## 1. INTRODUCTION

- 1.1 These Guidelines set out the way in which Members and officers of the Council should behave towards one another. They define the roles and responsibilities of Members and officers. They cannot cover every eventuality, but set a framework for dealing with issues as they arise.
- 1.2 The Guidelines take account of the Ethical Standards in Public Life (Scotland) Act 2000, and the Councillors' Code of Conduct, (Standards Commission for Scotland – December 2021). Appendix A of the Councillors Code of Conduct contains a model Protocol for Relations between Councillors and Employees in Scottish Councils, breach of which contravenes the Councillors Code of Conduct. These Guidelines incorporate the provisions of the model Protocol in Appendix A. They should also be used in conjunction with other existing guidance such as the North Ayrshire Council Code of Conduct for Employees, the Acceptable Computer Use policy and the Council's Standing Orders.

## 2. WHO IS AFFECTED?

- 2.1 The most frequent contacts are between Members and senior officers at Chief Executive, Executive Director or Head of Service level, and these Guidelines are largely about those contacts. There are also many contacts between Members and other officers in their daily business, and the principles of these Guidelines also apply to them. The particular position of officers who provide support services for Members is dealt with separately in paragraph 11.

## 3. THE ROLE OF ELECTED MEMBERS

- 3.1 Within a Council, Members have a number of different roles:
  - Some are Chairs or Portfolio Holders for specific issues;
  - Many belong to political groups, with others forming Independent Groups;
  - Each has a local ward to represent along with other Elected Members, involving contact with local groups and providing surgeries for individual constituents;
  - Each may represent the Council in partnership arrangements and on outside organisations.
- 3.2 Collectively, Elected Members also:
  - Provide strategic leadership;
  - Determine policy aims and objectives;
  - Take decisions not delegated to officers and;
  - Review performance.

In all such roles, Councillors should act in accordance with the principles of the Code of Conduct for Councillors and these Guidelines.

### 3.3 *The Council and Committees*

The main functions of the Council are to:

- Debate and agree policy proposals;
- Debate and agree budgets;
- Appoint the Members of regulatory and other committees;
- Make appointments to outside bodies and;
- Provide a forum for debating key issues.

Details of remits for the Council and committees are included in the Standing Orders and Scheme of Administration.

It should be noted that under the Local Government (Scotland) Act 1973, functions or decisions cannot be delegated to individual Councillors. Thus an individual Councillor can never have power to make decisions which bind the Council or its officers.

## 4. THE ROLE OF OFFICERS

4.1 The role of officers is as follows:

- The Chief Executive and Executive Directors are responsible for assisting the Council in the development of its policies and the discharge of its responsibilities;
- The Chief Executive and Executive Directors have responsibility for ensuring policy implementation;
- The Chief Executive and Executive Directors are responsible for operational management of services;
- The Chief Executive has responsibility for providing advice and management and publishing decisions;
- The Executive Directors and Service Heads have managerial accountability for their service areas and act as the first point of contact for that service;
- Some officers have personal statutory powers and duties, for example the officer designated as Head of Paid Service (Chief Executive), the Monitoring Officer (Head of Democratic Services), the Section 95 Officer (Head of Finance) and the Chief Social Work Officer.

4.2 The following duties will apply to the position of Chief Executive:

- The Chief Executive is the statutory Head of Paid Service and as such will be “responsible for managing and securing the professional body of staff needed to deliver modern, well-focussed service effectively” (DETR, June 2000).
- The Chief Executive, as the most senior manager, is the main point of contact for Members when difficulties arise; however Members should generally raise any problem with the appropriate Executive Director or Head of Service in the first instance.
- The Chief Executive, as the Head of Paid Service, will work closely with the Leader of the Council in ensuring policy implementation but will work impartially with all groups and individual Members.

4.3 The organisational role of officers has two important dimensions. Some officers have professional skills relevant to a particular organisational task. Others have primarily a managerial responsibility. Many have elements of both in their jobs.

4.4 Officers also know that they must:

- Pursue lawful policies of the Council;
- Implement the decisions of Council, committees and sub-committees;
- Inform M e m b e r s immediately of any decision that cannot be fully implemented, (senior officers should undertake this task);
- Behave in a professional manner;
- Treat all Councillors fairly and openly in their role as local representatives;
- Serve all Members of the Council;
- Deal with Member enquiries efficiently and promptly;
- Strive continually to comply with the Council’s performance management processes
- Maintain political neutrality at all times

4.5 Council officers have an obligation to follow Council policies and to implement the decisions of the Council and its committees even if they have professional misgivings about proposed decisions. The role of officers in that situation is to advise Elected Members and to voice concerns in giving that advice. An officer will normally have a duty not to implement a Council decision if it is manifestly illegal. In such circumstances, the officer should seek the advice of the Monitoring Officer and the Chief Executive.

4.6 Officers’ delegated powers are outlined in the Council’s Scheme of Delegation which forms part of Standing Orders.

## 5. PERSONAL CONDUCT

5.1 **Courtesy** – in line with the Councillors’ Code of Conduct reference to “mutual trust and respect” – it is important that Members and officers should behave

courteously to one another. None should take unfair advantage of their position.

5.2 **Disagreements** – should be acknowledged and worked out in private rather than in public view.

5.3 **Close personal friendships** – personal friendships between individual Councillors and officers can also damage good relations and prove embarrassing to other Councillors and officers. Councillors and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.

5.4 **Constructive criticism** – Members have the right to make reasonable and constructive criticism of the work of officers. Members should remember that officers cannot respond to personal criticisms of themselves or other officers in the same way that politicians can and should make their comments accordingly. In accordance with the Code of Conduct for Councillors, Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to Councillors the respect and courtesy due to them in their various roles.

5.5 **Lines of accountability** – Members must be aware of the lines of accountability within Directorates. They must not apply pressure to an officer to act against the instructions of management.

5.6 **Decisions delegated to officers** – Members should not put pressure on an officer on matters which have been delegated for officer decision. Officers should be left to make decisions that are:

- Objective and can be accounted for;
- Fair and consistent in their applications;
- Accord with policy.

See paragraph 4.6

5.7 **Undue influence** – Members should not bring undue influence to bear on an officer to take any action which is contrary to law or against the Council's approved procedures. This could include action which is:

- A breach of personnel procedures;
- In conflict with Standing Orders/financial regulations;
- In conflict with planning procedures and policies;
- In conflict with Codes of Conduct.

5.8 **Declaring relationships with constituents** – Members must declare any relevant close personal relationships with constituents when dealing with council officers. Although Members are elected to represent the interests of their constituents, they should not seek special treatment for any individual.

## 6. ACCESS TO INFORMATION AND DATA PROTECTION

- 6.1 Members are free to request council Directorates provide them with information, explanation and advice about that Directorate's functions, which they may reasonably need in order to help them carry out their roles as Members of the Council. Councillors should normally approach the Executive Director or a Head of Service. This can be for general information about aspects of the Directorate's activities or specific information on behalf of a constituent.
- 6.2 Members have certain statutory and common law rights to request and inspect Council documents. The common law rights are wider and more significant than those given by the Access to Information provisions of the Local Government (Scotland) Act 1973. For instance, papers which contain "exempt information" relating to the categories specified in the Access to Information legislation may fall within the rights of inspection given to Councillors by common law.
- 6.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or sub-committee meeting. This extends not only to reports which are to be submitted to the meeting but also to any relevant background papers. In relation to reports which are exempt under the Local Government (Scotland) Act 1973, Council practice has generally been to disclose these where possible, on request. It should however be appreciated that there are certain documents which cannot be disclosed particularly those which contain sensitive personal information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, social work and criminal justice cases. In other cases, such as an opinion of Counsel or documents relating to contract negotiations, disclosure may only be made if the Councillor signs an undertaking promising not to further disclose the document.

Members also have a right to get copies of documents under the Freedom of Information (Scotland) Act. Again, there are some exemptions.

- 6.4 The common law right is based on the principle that any Member has a right to inspect Council documents if access is reasonably necessary to enable the Member to perform his/her duties as a Member of the Council – commonly referred to as the "need to know" principle.
- 6.5 The exercise of this common law right depends upon the Member's ability to demonstrate that he/she has the necessary "need to know". This question will initially be determined by the Executive Director who holds the document in question. In the event of a dispute, the question should be referred to the Chief Executive (taking advice if necessary from the Monitoring Officer).
- 6.6 A "need to know", and therefore a right to inspect, will not exist in relation to:

- A document which forms part of the internal workings of another party group;
  - The working draft of an officer's report before it has been authorised for circulation to Council or other committee;
  - Personal information covered by the provisions of the Data Protection Act.
- 6.7 In some areas there are specific statutory codes which deal with the treatment of confidential information. This is especially true of Education and Social Work records. At all times, both Members and officers must recognise the need to operate within the overall legislative framework surrounding information.
- 6.8 There is no automatic right to confidentiality of any communication. Members and officers need to be aware that the Council is subject to the rigours of the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations and Re-use of Public Sector Information Regulations which require the Council to provide, subject to exceptions, recorded information held by it.
- 6.9 Members and officers should be aware of the provisions of the Data Protection Act 2018 which incorporates the provisions of the General Data Protection Regulation. Anyone who holds personal information may require to be registered with the Information Commissioner's Office (ICO). Personal information obtained through the Council, such as committee reports or information provided by Officers is covered by the Council's registration and requires to be handled in accordance with the Council's procedures for processing such information. Information obtained through a political party of which you are a member is likely to be covered by that Party's registration. Similarly, it requires to be handled in accordance with the Party's procedures for processing such information. When holding personal information Members must abide by the following rules:-
- Members must have some legitimate basis for holding and using the information, usually because your constituent has provided their personal information to enable you to investigate their concern. As long as the information is used for this purpose, the constituent's consent is the basis on which you can share this information with others to investigate their concern. In other words, if a constituent or other member of the public asks you to resolve an issue you are allowed to contact officers to attempt to resolve the issue on behalf of your constituent.
  - Only use the information for the purposes for which it was given.
  - You should ensure that any personal information which you hold is stored securely, whether in electronic or paper format.
  - You should not keep the information any longer than you need to.

- Personal information held by the local authority should not be used for political purposes unless both the local authority and the individuals' concerned agree.
- Where sharing information with another ward councillor, the constituent must be made aware that this is going to take place and why it is necessary. Where they object to this information sharing cannot happen.
- Members requesting sensitive personal information on behalf of constituents from the Health and Social Care Partnership or other Directorates will only receive such information if they have a signed consent form from the constituent asking the Councillor to obtain such information.
- If you receive a Subject Access Request seeking information held by you, you will need to respond within the legislative timescales of 30 days. This is likely to relate to constituent enquiries, rather than information you obtained from the Council.

The ICO's website gives further information including the following briefing 'Advice for Elected and Prospective Councillors' which can be viewed at:-

<https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>

While this advice is still valid, it has been supplemented by the Information Commissioner's 'Guide to the General Data Protection Regulation' which can be viewed at:-

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

The Council's Data Protection Officer can also provide further support, and will ensure that your registration with the ICO is in accordance with the Data Protection (Charges and Information) Regulations 2018

- 6.10 Members should not put pressure on officers to provide them with documents to which they have no statutory or common law right or to withhold from other Councillors documents to which they have a statutory common law right of access. The advice of the Monitoring Officer and the Chief Executive should be sought promptly if there is doubt about whether access should be given.
- 6.11 If a Member is refused information by a Council employee they should be clearly advised as to why they are being refused. If a Member is not satisfied by the refusal he should initially raise the issue with the appropriate Executive Director. If a Member is not satisfied with the Executive Director's refusal of information the member can appeal this refusal to the Council's Chief Executive who may refer this to the Monitoring Officer to be dealt with as a Freedom of Information Review.

If the Chief Executive/Monitoring Officer refuses the request on the basis that it results in the disclosure of personal information under the Data Protection Act, or on the basis that disclosure would be illegal, the Member can appeal this refusal to the Scottish Information Commissioner who deals with Freedom of Information Appeals.

- 6.12 Both Members and officers have access to information which has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. Confidential information must never be disclosed or used for personal advantage or to the disadvantage or the discredit of the Council or anyone else. This is a breach of the Councillors' Code of Conduct.
- 6.13 In light of the above procedures, Members will not normally be expected to request information under the Freedom of Information arrangements.

## **7. ACCESS TO ADVICE**

- 7.1 Officers provide professional and managerial advice to Councillors in a number of settings.
- To the Council, committees, sub-committees and working groups in written reports;
  - To the political leadership;
  - To the party groups;
  - To individual Councillors with specific roles (Committee Chairs, Portfolio Holders);
  - To individual Councillors as local members.
- 7.2 Officers within a Directorate are accountable to their Executive Director and Heads of Service and should take this into account when giving advice to Elected Members.
- 7.3 In the spirit of informed and co-operative working the Chair of a committee will often be consulted on the preparation of reports. However the ultimate decision on whether and when to submit a report to Council or committee is one for officers. While employees will wish to listen to the views of Chairs or Portfolio Holders, the Executive Director will always have final responsibility for the contents of any report submitted in his/her name. The decision on whether to submit a motion to Council is one for an Elected Member, subject to the provision in Standing Orders which allows the Provost to rule on whether an illegal motion can be admitted. An Elected Member has the right to submit a motion to the Council which disagrees with the advice and recommendation of an officer.
- 7.4 **Committee Chairs and Portfolio Holders**

Portfolio Holders are recognised as the legitimate spokespersons on their Directorate's area of responsibility.

Where authority is delegated to employees they may wish to consult the relevant Portfolio Holder about the action they propose to take but the responsibility for the final decision remains with the employee who is accountable for it. Portfolio Holders and Chairs should bear this in mind when discussing proposed action with employees.

- 7.4.1 Chairs and Portfolio Holders will have many dealings with employees. These employees should always seek to assist a Chair or Portfolio Holder but it must be remembered that they are ultimately responsible to their Executive Director.

## **7.5 Party or Independent Groups and Officers**

- 7.5.1 The Council operates through a system of groups of councillors, based on political affiliation and Independent Members. All employees must, in their dealings with Groups and Members, treat them in a fair and even-handed manner. Employees must at all times maintain political neutrality.

- 7.5.2 Officers may properly be called upon to support and contribute to deliberations by Groups on matters of Council business under consideration. This support can be provided in many forms, ranging from a briefing meeting with a Portfolio Holder to a presentation to a full party group meeting. Whilst in practice such support is likely to be in most demand from the Group or Groups in control of the Council, support is available to all Groups. The advice given by employees to different Groups and individual Members should be consistent.

- 7.5.3 If attendance at a Group meeting is required, the office bearers of the Group should contact the Chief Executive and outline the type of advice they are seeking. The Chief Executive will decide whether attendance at the meeting is appropriate, and which officer(s) should attend.

- 7.5.4 Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party or political business and are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.

- 7.5.5 Officers must respect the confidentiality of any Group discussions at which they are present. It is acknowledged however that factual information upon which any advice is based will, if requested, be available to all Groups.

- 7.5.6 Special care needs to be exercised if officers are involved in providing information and advice to a Group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Councillors' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons, officers may not be able to provide the same level of information and advice as they would to a meeting where those in attendance are bound by the provisions of the Code. Normally

an officer attending a Group meeting must request that non-Councillors be absent for the period of their attendance.

- 7.5.7 Officers must respect the confidentiality of any discussions at which they are present with Members. If officers receive information which, although confidential, they have a duty to disclose elsewhere, they must indicate that this is the case.
- 7.5.8 Conclusions reached at party group meeting are not Council decisions, and it is essential that they are not interpreted or acted upon as such.
- 7.5.9 Providing information and advice to a Group cannot act as a substitute for providing all necessary information and advice to Council or the relevant committee or sub-committee.
- 7.5.10 Elected Members should recognise that information and advice given by employees should be used to enhance discussion and debate at Council and committee meetings. If such information is used for political advantage, for example media briefings beforehand, then the process could become devalued and place employees in a difficult position in giving information and advice.
- 7.5.11 The Chair of a political group meeting attended by employees has a responsibility for ensuring that those attending are clear on the status of the meeting and the basis on which employees are attending.
- 7.5.12 Officers must never allow their own personal or political opinions to interfere with their professional advice. Officers should not take part and Members should not ask officers to take part in any activity which could be seen as influencing support for a party. Members should raise with the Chief Executive any concerns about the political neutrality of an officer.
- 7.5.13 Senior Officers, and other officers providing advice and support services to Elected Members, are subject to legal rules limiting their political activities outside work.
- 7.5.14 Should any difficulty of uncertainty arise in the area of employees' advice to party groups, this should be raised with the Chief Executive, who will discuss the matter with the group leader.

## **8. THE COUNCIL AS EMPLOYER**

- 8.1 Officers are employed by the Council and both they and the Council are governed by contracts of employment and the Council's personnel policies and procedures. The Council has a duty of care towards all of its employees and these Guidelines reflect this.
- 8.2 In making employment decisions, the key principles for Elected Members to follow are:

- Members involved in appointments of employees must act fairly and openly and judge candidates solely on merit;
- Members should not gain financially or personally, nor should their families or friends;
- Members have a duty to declare any private interest, and to protect the public interest;
- Members should have no involvement in employment or recruitment decisions in which they have a personal interest;
- In making public appointments or recommending people for rewards or benefits, Members must make choices on merit, using objective criteria;
- Members should be open about, and are accountable for, the decisions they make in the role of employer. However, some employment matters should be dealt with in confidence;
- Employment issues are usually dealt with by following written procedures, often agreed with the unions. Members should not do anything to undermine the following of proper procedures.

8.3 Members are collectively responsible when acting as employer and are bound by the complete framework of national and European employment law. However, it must be noted that an individual who commits an act of discrimination on the basis of race, gender or disability can be personally liable. The Council is an equal opportunity employer and Members should be guided by this principle in all their relationships with staff.

8.4 In addition, under the Code of Conduct:

- Members must not solicit a job with the Council for any person (but, in appropriate cases, may give them a written testimonial);
- Members must not try to influence the recruitment process;
- Members should know that canvassing support for a candidate for a job with the Council disqualifies the candidate from that job.

8.5 Members must not become involved in issues relating to individual employees' pay or terms and conditions of employment, except while serving on a committee delegated to deal with such matters. A Staffing and Recruitment Committee has been established for Chief Executive and Chief Officer appointments. An Appeals Committee has been established to hear appeals lodged by individual members of staff against certain decisions, such as dismissal. All other disciplinary, capability or grievance processes are decisions for officers.

8.6 Members must not get involved in the operational management or delivery of Council services; this is an officer role. Members are responsible for policy and strategy and officers are responsible for operational management of services. As a general rule, if a power is delegated to officers under the Council's Scheme of Delegation it is operational.

The Standards Commission for Scotland have published an 'Advice Note for Councillors on Distinguishing between their Strategic Role and any Operational Work' which provides further information and can be viewed at:- <http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>

Nor must Members become involved in the management of Council employees or engage in activities which might undermine the management lines of responsibility or adherence to Council personnel procedures.

- 8.7 Members will frequently come into contact with representatives of the Joint Consultative Forum (JCF). The remit of the forum is:
- To provide a forum and procedure for Members and Trade Unions to meet on a regular and constructive basis to exchange information and resolve issues of mutual concern; and
  - To promote and develop good relations between the Council and their Trade Unions
- 8.8 This forum does not have a remit to become involved in matters affecting an individual employee's terms, conditions and pay and Members must observe this remit in their contacts with Trade Union Officials.
- 8.9 Members must, at all times, adopt a professional approach in their dealings with the Trades Unions and in particular must:
- Avoid giving unauthorised commitments;
  - Take a balanced view of information provided by the Trades Unions along with that of officers;
  - Not allow undue influence to be placed upon themselves.
- 8.10 Likewise, officers must not raise directly with Members any personal matter to do with their jobs, or relating to any potential appointment.
- 8.11 There are restrictions on former Elected Members' employment within the Council. A 12 month restriction for former Councillors being employed in politically restricted posts and for former Councillors who have been directly involved in the appointments process for Council Officers holding politically restricted posts, but the restriction is three months for all other posts.

## **9. MONITORING THE PERFORMANCE OF OFFICERS**

- 9.1 Members should set the parameters for Council work and then let officers undertake the work, whilst guaranteeing that strong monitoring and performance management systems are in place. Members should not be involved in the operational management of Council services; this is an officer role, as detailed in 8.6.

9.2 Members have a right to criticise reports or the actions taken by officers, but they should always:

- Avoid personal attacks on officers;
- Ensure that criticism is constructive and well founded;
- Avoid undermining respect for officers at committee meetings, in any public forum or through the media;
- Use the agreed grievance procedures (when resolution cannot be achieved through normal lines of communication).

9.3 The Chief Executive, as the statutory appointed Head of Paid Service, is the first point of contact for Members regarding organisational and staffing matters. Executive Directors and Heads of Service are the first point of contact in their respective service areas.

9.4 Complaints about officers or Council services should be made to the Executive Director or to the Chief Executive as appropriate. Members have a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort. These issues must, however, be raised through the proper channels.

9.5 As detailed in paragraph 5.1 and in line with the Councillors' Code of Conduct reference to "mutual trust and respect", it is important that Members and officers should behave courteously to one another. While Councillors' enjoy a right of free speech in terms of Article 10 of the European Convention of Human Rights (ECHR) it should be noted:-

- The right to freedom of expression is not absolute. Restrictions may be imposed to ensure that the conduct of public life at the local government level, including public debate, does not fall below a minimum level so as to endanger public confidence in democracy.
- This includes protecting officers from offensive and abusive verbal attacks. It is in the public interest that officers are not subjected to unwarranted comments that prevent them from performing their duties in conditions free from disturbance.
- Public servants are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are for elected politicians.

The recent Advice Note issued by the Standards Commission for Scotland on 'The Application of Article 10 of the ECHR and the Councillors' Code of Conduct' provides useful information on this.

9.6 The Monitoring Officer has power to report any proposal, decision or omission by the Council or its officers which causes or is likely to cause:

- A contravention of the law or any code of practice;

- A maladministration or injustice which could be investigated by the Scottish Public Services Ombudsman.

## **10. SUPPORT TO OFFICERS**

- 10.1 Just as Section 9 of this protocol provides Members with a mechanism for criticising the actions or decisions of officers, officers too must have some protection where they feel that Members' expectations are unreasonably demanding or in conflict with managerial instruction or Council policy or procedure.
- 10.2 Complaints or concerns should be raised with the appropriate Directorate's Executive Director, or with the Chief Executive. Officers have the right to make a complaint about a breach of the Councillors' Code of Conduct to the Standards Commission. While individual Councillors have the right to defend any such complaint, pressure must not be put on any officer by Council, its committees or councillors to withdraw or amend the complaint.

## **11. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 11.1 The Council can only lawfully provide support services to Members to assist them in discharging their role as Members of the Council – secretarial and typing support, policy support, stationery, printing, photocopying, transport and such like. Support services must be used only for Council business. They must never be used in connection with party political or campaigning activity or for private purposes. Members should never ask staff to provide improper support.
- 11.2 The protocols governing the duties of Members' support services staff are as follows:
- They are Council employees and subject to Council contracts of employment, Standing Orders, and staff instructions. As such they cannot be required to breach Council procedure, the terms of their contract of employment or the legal restrictions on them;
  - They are responsible to officers for the conduct of their duties. Any issues about conflicting priorities, conduct or performance must be referred to their line managers;
  - They cannot represent or stand in for Members;
  - The existence of Members' services support staff should not detract from normal Member/officer relationships.

## 12. MULTI-MEMBER WARDS

- 12.1 Members have a duty to be accessible to all the people of the multi-member ward they have been elected to and to serve their interests conscientiously. However Members also have a duty to act in the interests of the Council area as a whole and all the communities served by it, not just those of their own ward or town.
- 12.2 The introduction of multi-Member wards has implications for the co-ordination of constituents' enquiries. Individual constituents have the right to choose to approach any of the Elected Members representing their ward.
- 12.3 When constituents seek contact with local Elected Members, information should be provided in a consistent manner, leaving the constituent to choose which Elected Member they wish to contact. Elected Members' names and contact details should be provided in alphabetical order, by surname, along with their political affiliation.
- 12.4 Where a constituent has not identified a particular Councillor to deal with their concerns, officers should contact the constituent to clarify which Member they would like to deal with their enquiry.
- 12.5 If a constituent does not wish to specify a Member, the last resort should be to copy the query to all the ward Members, with the express permission of the constituent.
- 12.6 Members within a particular ward may agree among themselves on ways of allocating responsibilities, however the individual constituent has the right to approach the Elected Member of their choice.
- 12.7 The relationship between the Elected Member and constituents is of a confidential nature, therefore the consent of the constituent is required before any information about them or the nature of their query is passed between Elected Members.
- 12.8 An Elected Member may suggest to a constituent passing on their query to another Elected Member. Such a referral should only be made with the express approval of the constituent who may request that the enquiry be dealt with by the Member of their choice.
- 12.9 There is the possibility that constituents could raise their concerns with more than one Elected Member, without the Elected Members knowing this. This could lead to the situation where one officer is dealing with an enquiry without knowing that another officer is also dealing with the same enquiry. To avoid this potential duplication, Members should ensure that constituent complaints are recorded in the Lagan system.

### **13. MEETINGS AND CORRESPONDENCE**

- 13.1 Both Members and officers should take proper account of the time demands each is under when arranging meetings, particularly at short notice.
- 13.2 Officers should respond to requests for meetings with Members with priority but where these are requested at short notice, Members should accept that officers may have pre-arranged commitments.
- 13.3 There is no requirement for officials to invite other ward Members to, or notify them about, meetings organised by an individual Councillor with that official.
- 13.4 When Councillors initiate a meeting, officers should always ensure that the Councillors are given the opportunity to have other ward members attend.
- 13.5 Whenever a public meeting or consultative exercise on an issue local to one or more wards, is arranged by the Council, all ward Members should generally be invited to attend that meeting.
- 13.6 Officers should not divulge their discussions with individual Councillors to other Councillors, particularly Councillors of another political party, without the consent of the individual Councillor concerned. Correspondence between an individual Member and an officer should not be copied by an officer to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member at the time, or the consent of the original Member obtained. Officers are however entitled to divulge such discussions and correspondence to other officers, particularly Chief Officers where required. These other officers will also be bound not to disclose the discussions or correspondence to other Councillors, without the consent of the original Councillor.
- 13.7 When officers write to or meet with residents regarding matters of general concern in an area, all ward councillors should be sent copies or informed.

### **14. MEDIA RELATIONS**

- 14.1 The Chief Executive in consultation with the Council Leader where appropriate, and the Corporate Communications Manager, will issue press releases and similar information on behalf of the Council, deal with media enquiries and implement the Council's Communications Strategy. Officers are responsible for the decision whether to issue a press release on behalf of the Council, its timing and content. However if a Member is to be quoted in a press release that Member must first have agreed the terms of any such quote.
- 14.2 Individual Executive Directors when issuing press releases and dealing with media enquiries in relation to their own service will do so in consultation with the Corporate Communications Manager.

- 14.3 Where a response is required to circumstances which are corporate or “council wide”, the Chief Executive, in consultation with the Council’s Corporate Communications Manager, will express the views of the authority within the corporate policies agreed by the Council.

## **15. REVIEW OF THE GUIDELINES**

- 15.1 These Guidelines will be kept under review and may be amended by the Council from time to time. They will be kept up to date to take into account any future relevant legislation. Any amendments will be communicated to employees and Members.



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

**Standing Orders Relating to Contracts  
and Contract Procedure Rules for  
North Ayrshire Council**

12 May 2022

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## **1. Introduction**

**1.1** The Standing Orders Relating to Contracts (the Standing Orders) set out how the Council will invite tenders and let contracts for the supply of goods, works or services. The purpose of the Standing Orders which are made under Section 81 of the Local Government (Scotland) Act 1973, is to ensure that the Council:

- achieves social and economic value
- furthers its strategic aims
- purchases quality goods, services and works
- safeguards its reputation from any implication of fraud or corruption through a system of transparency, integrity, and accountability
- safeguards its employees and
- meets its legal obligations

**1.2** The Standing Orders also apply to the sale/lease of property and the disposal of surplus or scrap materials/equipment.

**1.3** Every contract authorised by Council Officers or other person engaged by the Council to which the power of entering into contracts has been delegated, shall comply with the Standing Orders and

- The Revenue or Capital Budgets as approved by the Council
- The Financial Regulations of the Council
- The Scheme of Delegation to Officers
- The Procurement Reform (Scotland) Act 2014
- The Public Contract (Scotland) Regulations 2015
- The Procurement (Scotland) Regulations 2016
- North Ayrshire Council's Procurement Strategy
- North Ayrshire Council's Procurement Manual
- Local Democracy, Economic Development and Construction Act 2009  
Commencement no. 2 (Scotland) Order 2011 for Construction contracts, other than those expressly excluded under the Construction Contracts Exclusion Order 1998.

**1.4** Due consideration should also be given to all Guidance and Policy Notes issued by the Scottish Government, Scottish Procurement Directorate in respect of procurement matters.

## **2. Definitions**

**2.1** In these Standing Orders the following words and phrases shall have the meaning hereinafter assigned to them, that is to say:

**2.1.1** “Best Value” means the legal duty to secure continuous improvement in the performance of the Council’s functions as set out in section 1 of the Local Government in Scotland Act 2003

**2.1.2** “Cabinet”, means the Cabinet of North Ayrshire Council

**2.1.3** “Chief Officer”, means the Chief Executive, Executive Director, or Head of Service of the Council

**2.1.4** “Community Benefit” means, benefits requested from suppliers within Procurement Exercises, which become contractual requirements. Community Benefits include employment, education and community support and support for SMEs and TSOs

**2.1.5** “Community Benefits Officer” means the Council Officer who manages and monitors the community benefit process

**2.1.6** “Corporate Procurement Unit” means the centralised procurement team of officers that progress Procurement Exercises for service teams for all procurements over the value of £10,000 for Supplies, Services and Works

**2.1.7** “Direct Award” means a call-off from an established approved Framework Agreement.

**2.1.8** “Designated Officer”, means any Officer authorised in writing by any Chief Officer for the purposes of these Standing Orders

**2.1.9** “Dynamic Purchasing System” means a procedure available for contracts for Supplies, Services and Works, it has similar aspect to a Framework Agreement but new Suppliers can join at any time.

**2.1.10** “Find a Tender (FTS)” means the portal for higher-value, public contract opportunities (tenders) within the UK. The portal is used by both public buyers and Suppliers. For public buyers, the use of the portal is in compliance with Public Contracts (Scotland) Regulations 2015

**2.1.11** “Framework Agreement” means an agreement between one or more contracting authorities and one or more economic operators, to establish the terms governing public contracts to be awarded during a given period

**2.1.12** “GPA” means the Agreement on Government Procurement which is a plurilateral agreement under the auspices of the World Trade Organization (WTO) which regulates the procurement of Goods, Services and Works by the public authorities of the parties to the agreement. Tenders over the GPA threshold will be published in the Find a Tender Service

**2.1.13** “Light Touch Regime” means specific set of procedural rules for Social and other Specific Services as more particularly set out in Regulations 74-76 of the 2015 Regulations

**2.1.14** “Mandatory contract standstill period”, means a period of not less than 10 calendar days following communication by electronic means of the award decision to all tenderers as provided for in The Public Contracts (Scotland) Regulations 2015

**2.1.15** “Mini -competition” means a call-off from an established approved framework, where all suppliers from the framework for the relevant lot are invited to bid

**2.1.16** “PCS”, means Public Contracts Scotland which is the national tender advertising portal

**2.1.17** “PCS-T” means Public Contract Scotland Tender which is the e-Tendering system used to progress procurement exercises

**2.1.18** “Post tender negotiations”, means any communication between a Chief or Designated Officer and a tenderer subsequent to the return date for the tender and the acceptance of any such tender

**2.1.19** “Procurement Exercise”, is a general term used to describe any appropriate procurement procedural route followed to obtain goods, services or works. This can include a Direct Award, Quick Quote, Mini-Competition, award without competition, Regulated Procurement, Non-Regulated Procurement or GPA tender

**2.1.20** “Procurement Officer” means the Council Officer who progresses allocated procurement exercises in compliance with legislative requirements and these standing orders

**2.1.21** “Quick Quote” is a facility available on the Public Contracts Scotland website to electronically request and receive quotations. The Corporate Procurement Unit use the Quick Quote facility where the estimated value is between £10,000 and £50,000 (Supplies and Services) and between £10,000 and £500,000 (Works).

**2.1.22** “Regulated Procurement” means a procedure to award a regulated contract being a public contract, which is equal to or greater than £50,000 (other than works or health or social care contracts) or £2 million for works contracts or as set out in the Procurement of Care and Support Services 2016 (Best Practice) Guidance for applicable social care contracts and “Regulated Procurement Thresholds” shall be construed accordingly “2015 Regulations” means the Public Contracts (Scotland) Regulations 2015 or successor legislation (as amended from time to time)

**2.1.23** “Request for Procurement Action (RPA)” means a document setting out as a minimum:

- the Council’s requirement for the goods, works or services and why we need it
- Selection and award criteria
- approval to proceed to procurement following a make or buy decision
- confirmation that a financial viability assessment has been carried out and there is sufficient budget to meet the whole life costs associated with the requirement

- 2.1.24** “Services”, means any service as defined by the Public Contracts (Scotland) Regulations 2015 and any subsequent amendments thereof
- 2.1.25** “Service Team Representative” means the Council Officer from the relevant service team (Roads, Facilities Management, Property Maintenance and Investment etc.) that is requesting a procurement exercise to be progressed
- 2.1.26** “SPD”, means the Single Procurement Document (pre-qualification questionnaire)
- 2.1.27** “Supplier” means a contractor, service provider or supplier that supplies Goods, Services or Works
- 2.1.28** “Supplies”, means any supplies as defined by the Public Contracts (Scotland) Regulations 2015 and any subsequent amendment thereof
- 2.1.29** “Tender” means any procurement exercise published on Public Contract Scotland with a value greater than £50,000 (Supplies and Services) and £500,000 (Works) or a bid submitted for a tender advertised on PCS
- 2.1.30** “the 1973 Act”, means the Local Government (Scotland) Act 1973
- 2.1.31** “the 2003 Act”, means the Local Government in Scotland Act 2003
- 2.1.32** “the 2015 Regulations”, means the Public Contracts (Scotland) Regulations 2015
- 2.1.33** “the 2016 Regulations”. Means the Procurement (Scotland) Regulations 2016
- 2.1.34** “the Reform Act”, means the Procurement Reform (Scotland) Act 2014
- 2.1.35** “the Scheme of Delegation”, means the Scheme of Delegation to Officers approved by the Council on 25 September 2019 or any subsequent amendment.
- 2.1.36** “the SDS 2013 Act”, means the Procurement and Social Care Self Directed Support (Scotland) Act 2013
- 2.1.37** “Trading Activities”, refers to when the Council bids for or is awarded contracts to deliver goods, service or works to other public sector bodies or private sector organisations
- 2.1.38** “Works” means any works defined in the Public Contracts (Scotland) Regulations 2015 and any subsequent amendment thereof

### **3. Extent and Application**

**3.1** These Standing Orders are made under Section 81 of the Local Government (Scotland) Act 1973 as amended and, subject to the provisions of Standing Order 5 (Exempted Contracts), shall apply to all contracts made by or on behalf of the Council for the provision of Supplies or Services and the execution of Works.

**3.2** The Standing Orders shall be applied having regard always to the key principles of:

- Transparency
- Equal Treatment
- Non-discrimination
- Proportionality

**3.3** The Standing Orders are subject to the over-riding provisions of the United Kingdom or Scottish legislation. They are also subject to any UK Government or Scottish Government guidance on public procurement that may be issued from time to time.

**3.4** All Council employees engaged in procurement on behalf of the Council must comply with the duty to secure best value in accordance with the 2003 Act.

**3.5** All Council employees shall comply with the terms of the Standing Orders and any failure to do so may result in disciplinary action.

**3.6** Any Council employee who is contract managing a third party or agent that is procuring on behalf of the Council must ensure that the third party complies with the terms of the Standing Orders and any failure to do so may result in disciplinary action.

**3.7** Other than alterations of a minor or technical nature or such as are required to be enacted immediately to ensure compliance with statutory obligations that do not have a policy impact (“minor changes”), the Standing Orders may only be varied or revoked by the Council and any motion to vary or revoke these Standing Orders shall conform to the requirements of Standing Order No. 22 of the Standing Orders Relating to Meetings and Proceedings of the Council. Any minor changes must be approved by the Cabinet and reported to the next meeting of the Council.

**3.8** It is the responsibility of each Chief Officer to ensure officers within their directorates who are involved in procurement comply with the Standing Orders.

**3.9** Any query regarding the application or interpretation of these Standing Orders must be referred in the first instance to the Head of Democratic Services.

## **4. Health and Social Care Services**

**4.1** These Standing Orders shall apply to contracts for all Health and Social Care Services subject to the special procedures set out in Annex C.

**4.2** All Health and Social Care procurement will be undertaken by the Corporate Procurement Unit with the agreement of the Senior Manager (Corporate Procurement).

## **5. Exempted Contracts**

**5.1** It must be noted that whilst certain categories of contract are exempt from the Standing Orders, they are not exempt from the application of the Reform Act and the 2015 and 2016 Regulations, where these apply and all stated exemptions from Standing Orders are subject to the proviso that such exemption is within the statutory powers of the Council and does not contravene any UK or Scottish legislation. Subject to the continued application of Standing Order 3.2 (key principles), and Standing Orders 5.2 to 5.5 (which apply in all cases), these Standing Orders shall not apply to:

**5.1.1** Any contract of employment; this exemption does not extend to any arrangements for the employment of staff on an agency basis.

**5.1.2** Any contract or type of contract which the Council or any Committee of the Council declare to be exempt, upon declaration that it is satisfied that the exemption is justified by special circumstances. Note: lack of forward procurement planning does not constitute special circumstances.

**5.1.3** Any contract with a value less than £1M which a Chief Officer in consultation with the relevant Portfolio Holder and after obtaining the agreement of the Chief Executive, considers may be exempted by virtue of any special circumstances. Special circumstances do not extend to lack of forward planning for the appropriate procurement exercise.

**5.1.4** Any contract for the supply of goods or materials or for the provision of Services or for the execution of Works which in the opinion of any Chief Officer, are urgently required for the prevention of damage to life or property.

**5.1.5** Any contract or Framework Agreement or Dynamic Purchasing System, that has been approved by the Senior Manager (Corporate Procurement) and entered on the Council's behalf by a consortium, partnership, company or similar body of which the Council is a member or user, where such body has invited bids for the provision of Supplies, Services or Works, including for example the Scottish Procurement and Property Directorate, Crown Commercial Services and Scotland Excel.

**5.1.6** Any individual Mini-Competition exercises undertaken by the Council against an approved Framework Agreement or Invitation to Tender exercise against a Dynamic Purchasing System. Where the contract award value is above £500K, the contract will be approved by the Chief Executive and a Chief Officer and where the contract is between £50K and £500,000 for Supplies and Services the contract will be approved by a Chief Officer.

**5.1.7** Any contracts entered into by Hub South West Scotland (Hub) on behalf of the Council. The Hub is a public-private partnership that enables design and construction of community facilities within southwest Scotland, the Council is one of seventeen participants of the Hub.

**5.1.8** Any contact for the purchase of a specific piece of land or a building where there is a unique owner and therefore not open to a competitive procurement process.

**5.1.9** Any contract relating to the disposal or lease of land and buildings where offers have been invited and a closing date set. Such offers relating to property shall be invited and accepted in accordance with the provisions as set out in the Procedure for Disposal of Surplus Land and Property Assets (set out in Annex B) to the Council's Policy for Property Acquisitions and Disposals.

**5.1.10** All contracts for the supply of goods or materials (including second-hand goods or materials) and the provision of Services including consultancy Services where the total estimated contract value does not exceed £50,000, subject always to the need to demonstrate value for money and probity when entering any such contracts, see Standing Order 5.2 below.

**5.1.11** All contracts for the execution of works where the total estimated contract value does not exceed £500,000, subject always to the need to demonstrate value for money and probity when entering any such contracts, see Standing Orders 5.2 below.

**5.1.12** Any contract or purchase urgently required to react to any unprecedented external factors, out with the control of the Council, deemed appropriate by the Senior Manager (Corporate Procurement) taking cognisance of procurement legislation and supply market forces.

**5.1.13** Subject to Council or Cabinet approval any contract where the appropriate Executive Director is satisfied:

- that the requirement is not readily obtained from more than one Supplier, and it can be demonstrated that no equivalent is available or
- the prices of the Supplies, Services or Works are wholly controlled by trade organisations or government order, and it can be demonstrated that no equivalent is available or
- the requirements are subject to intellectual property rights, and it can be demonstrated that either no suitable alternative is available or that exposure to competition of an item covered by copyright, patent or trademark would breach such rights

**5.2** Where a contract is exempt due to the value, in accordance with Standing Orders 5.1.10 and 5.1.11 above, the following will apply to ensure value for money is achieved:

<b><u>Type of Contract</u></b>	<b><u>Threshold (excluding VAT)</u></b>	<b><u>Procedure</u></b>
Supplies, Services & Works	< £2,000	Single quotation
Supplies, Services & Works	£2,000 - £9,999*	Minimum 3 written quotes
Supplies & Services	£10,000 - £49,999	Quick Quote via Corporate Procurement
Works	£10,000 - £499,999**	Quick Quote via Corporate Procurement

\*Works only – if during an on-site Works programme unforeseen requirements are identified that could cause delay, then in these instances the threshold for a single verbal quote can be raised to £5,000. Records should be kept supporting the use of the increased limit.

Where the contract is exempt under Standing Orders 5.1.2, 5.1.3, 5.1.4 and 5.1.13 justification for obtaining a single quote instead of 3 quotes must be recorded and kept for audit purposes.

\*\*Where transparency, non-discrimination and equal treatment are not compromised the Senior Manager Corporate Procurement retains sole discretion to increase the threshold for Works up to £2,000,000.

**5.3** Trading Activities in accordance with Standing Order 8 below.

**5.4** Where a contract is exempt under Standing Orders 5.1.2, 5.1.3, and 5.1.13 then a Single Tender Action Request form (see Annex A) is required to be authorised prior to any contractual commitment being made to a supplier. For urgent requirements Standing Order 5.1.4 a retrospective single tender action form is required. The Single Action Request form will be amended from time to time, the latest version is available on Connects.

**5.5** Any contract exempted from these Standing Orders shall still:

- Comply with the duty to achieve Best Value
- Comply with all legal procurement requirements

## **6. Disaggregation**

**6.1** Contracts must not be disaggregated, packaged, or split into separate smaller contracts or requirements to avoid the application of any provision of the Standing Orders or any other legislative provisions. The aggregate value of any single requirement for Works, Services or Supplies across the whole Council must be considered in determining whether it exceeds the threshold for application of the GPA, or the thresholds stated within the Standing Orders.

**6.2** Where specialist consultancy services are required, whether through an existing Framework Agreement or as a new tendering process, at the initial stage, costs must be obtained for all potential stages of the project to ensure that the award decision is based on total potential costs rather than the initial stage only.

## **7. Authority to Invite Tenders**

**7.1** Tenders for the provisions of Services, Supplies and Works may be invited by a Chief Officer or Designated Officer where:

- authority for the project to which the tender relates has been granted, either through delegated powers, the Capital Plan or Revenue Estimates or specific Committee authority
- they are satisfied, after proper project appraisal, that the cost of the contract can be met within the approved budget for the project.

## **8. Trading Activities**

**8.1** Notwithstanding anything to the contrary under these Standing Orders, it is recognised that the Council when carrying out its function in terms of Trading Activities recognised by the Council from time to time, will be entering into contractual relationships related to those trading activities (such as appointing sub-contractors, ordering materials or other supplies, etc.) and the following procedures shall apply:

- The Chief Officer or Designated Officer may invite, accept and/or negotiate offers from proposed Suppliers for the supply of goods or materials or for the execution of Works or for the provision of Services to third parties. In exercising powers under this paragraph, they must, unless satisfied that an exemption is justified by special circumstances, secure competition for contracts and regulate the manner in which tenders are invited by securing compliance as far as considered practicable with the terms of these Standing Orders
- In undertaking trading activities on behalf of the Council all employees are subject to the duty to secure Best Value in accordance with the 2003 Act

## **9. Collaborative Procurements including Joint Commissioning of Social Care**

**9.1** Where the relevant Chief Officer or Designated Officer considers it to be in the best interests of the Council and in accordance with Best Value to do so, he/she may seek to enter into a collaboration with one or more other public authorities in respect of the procurement of a requirement for Supplies, Services or Works, subject to the following provisions.

**9.2** Every collaborative Procurement Exercise shall require to be approved in advance by the Senior Manager (Corporate Procurement) and the procurement process shall be undertaken in conjunction with the Corporate Procurement Unit.

**9.3** Every Joint Commissioning exercise shall require to be approved in advance by the Executive Director (Social Services & Health) or their Designated Officer and the commissioning process shall be undertaken in conjunction with the Senior Manager (Corporate Procurement.)

**9.4** A business case shall be prepared in respect of every Collaboration/Joint Commissioning exercise to establish the justification for this and shall be approved in advance by the Senior Manager (Corporate Procurement.)

**9.5** Where it is proposed that the Council shall act as “Lead Authority” in a Collaborative procurement/Joint Commissioning exercise with one or more public authorities, the terms of these Standing Orders shall apply to the procurement process and the written agreement of the other parties to the Collaboration, in the form of a Memorandum of Understanding, shall be obtained to this effect.

**9.6** Where another authority acts as “Lead Authority” in a Collaborative procurement/Joint Commissioning exercise for a contract on behalf of two or more public bodies, including the Council, the procurement and award process shall be conducted in accordance with the Standing Orders of the “Lead Authority”. In every such case however, the appropriate Chief Officer or Designated Officer must first be satisfied that the procurement and award of any such contract ensures that the principles of Best Value are adhered to, and the best interests of the Council are served at all times in Collaboration/Joint Commissioning.

**9.7** Prior to commencing any Collaborative Procurement/Joint Commissioning exercise, the appropriate Chief Officer or Designated Officer shall agree the parameters for this with the appropriate officers in the public authorities and shall record this in writing. Appropriate monitoring arrangement shall be put in place by the appropriate Chief Officer or Designated Officer to ensure the agreed terms for the Collaboration/Joint Commissioning exercise are adhered to by all parties.

## **10. Delegation of Procurement Activity**

**10.1** Each Chief Officer may nominate, in writing, such other properly qualified officers as they consider appropriate to undertake any of the duties as set out in these Standing Orders who will then have delegated authority to act in lieu of them in respect of the prescribed duties.

**10.2** No officer may award a contract greater than £10,000 without written delegated purchasing authority from the relevant Chief Officer and only after consultation with the Corporate Procurement Unit to ensure that a robust procurement process has been undertaken.

**10.3** A note of all written nominations made in terms of Standing Order 10.2 shall be provided to the Senior Manager (Corporate Procurement) for retention.

## **11. Conflicts of Interest**

**11.1** No officer who has a potential conflict of interest or a direct or indirect pecuniary interest in any Procurement Exercise is permitted to be involved in the specification development, contract strategy development, evaluation, award of the contract or contract management process.

**11.2** If any officer has a conflict of interest in any aspect of the procurement process, they must declare this interest as soon as it arises. The interest must be declared to the line manager and the Senior Manager (Corporate Procurement) using the [conflict of interest declaration form](#) (Annex E) available on Connects.

**11.3** Examples of Conflicts of Interest include members of the evaluation panel or The Corporate Procurement Unit processing the Procurement Exercise, having a financial interest or having a relationship (spouse, partner, family member, close friend etc.) with someone in the bidder's organisation. Failure to declare a conflict of interest in advance of any involvement in a Procurement Exercise may result in disciplinary action.

## **12. Purchase of Supplies, Service or Works**

**12.1** Prior to purchasing any Supplies, Services or Works, Officers are required to check the contract register and consult with the Corporate Procurement Unit to establish whether any existing contract, Dynamic Purchasing System or Framework Agreement accessible to the Council might fulfil their requirement.

**12.2** If a contract exists for the specific Supplies, Services and Works required, officers should check with the Corporate Procurement Unit, that they are able to utilise the contract. If agreed, officers then must then use the existing contract. If not agreed, an alternative contract will be procured. To utilise an existing contract, a purchase order should be raised in advance of making any commitment to Suppliers. The purchase order should refer to the contract reference number being used to ensure that the Council received the agreed contractual terms and conditions.

**12.3** If no contract exists and the value is below £10K then Standing Order 5.2 must be followed.

**12.4** The use of retrospective orders is not good practice and should only be used when an extreme emergency arises.

**12.5** The Council is working towards a “No PO – No Pay” this means that any invoice received from a Supplier without a valid purchase order will be returned to the Supplier. Officers are therefore responsible for ensuring that Suppliers are given a valid purchase order to quote on their invoices to ensure that Suppliers are paid on time.

### **13. Framework Agreements and Dynamic Purchasing Systems**

**13.1** The powers set out in this Standing Order 13 shall be exercised by Chief Officers or Designated Officer through the Corporate procurement Unit.

**13.2** Where there is likely to be a repeated requirement for particular Supplies Services or Works, a Chief Officer or Designated Officer may seek to establish or participate in a Framework Agreement or Dynamic Purchasing System in line with Standing Orders 13.3 or 13.4, after establishing this is the best value route after completing a contract strategy with the Procurement Officer.

**13.3** The Chief Officer or Designated Officer may elect to establish a Framework Agreement or Dynamic Purchasing System to provide for agreement on the terms for future call-off contracts (whether through Direct Award, in the case of a Framework Agreement only, or by the acceptance of a Tender following an Invitation to Tender/Mini-Competition) where permitted in accordance with the terms of that Framework Agreement or Dynamic Purchasing System. Standing Order 5.1.6 will apply to call-off Contracts awarded in such circumstances.

**13.4** The Chief Officer or Designated Officer may elect to participate in an existing Framework Agreement or Dynamic Purchasing System that has been properly constituted by Scotland Excel, the Scottish Procurement and Property Directorate, another local authority, the Crown Commercial Service or any other public sector procurement agencies and may enter into call-off Contracts (whether through Direct award, in the case of a Framework Agreement only, or by the acceptance of a Tender following an Invitation to Tender/Mini Competition) where permitted in accordance with the terms of that Framework Agreement or Dynamic Purchasing System. Standing Order 5.1.6 will apply to call-off Contracts awarded in such circumstances.

**13.5** Where, in order to participate in an existing Framework Agreement or Dynamic Purchasing System of the type described in Standing Order 13.4, the Council is required to enter into a participation agreement or other similar agreement regulating the use of the Framework Agreement or Dynamic Purchasing System by the Council, the Senior Manager (Corporate procurement) shall have the authority to enter into that agreement on behalf of the Council.

**13.6** Any Mini-Competition run by the Council shall be conducted by means of electronic tendering for the purposes of Standing Order 18 and shall run in accordance with the procedures set out therein, unless contrary to any provisions set out in the relevant Framework Agreement or DPS (in which case, the terms of the Framework Agreement or DPS will have precedence).

## **14. Supported Businesses & Reserved Contracts**

**14.1** The Council may restrict participation in a Regulated Procurement irrespective of its duties under Section 8 of the Act except where this is expressly prohibited by relevant legislation.

**14.2** The Council may reserve the right to participate in a tendering procedure to providers operating a Supported Business. Where this right is exercised by the Council the contract award procedures provided by the Regulations and Act shall be followed.

**14.3** Where the Council decides to restrict participation in a procurement to Supported Businesses it must state that fact in the contract notice.

## **15. Procedures prior to Commencing Procurement Exercise**

**15.1** No Tender shall be invited, or any contract negotiations commenced, unless:

- The estimated expenditure thereon is within the budgetary provision previously approved by the Council and in compliance with the Council's Financial Regulations. The Officer shall be responsible for ensuring that sufficient funds are available prior to the commencement of any Procurement Exercise.
- A Request for Procurement Action (RPA) (see Annex D) has been completed and authorised by the requesting service team's budget holder and authorised by Financial Management prior to being submitted to the Corporate Procurement Unit.
- The RPA document will be amended from time to time, the latest document is available on Connects.
- A contract strategy has been prepared by the Procurement Officer in consultation with the Service Team Representative.
- In cases of Collaborative Procurement, the terms of Standing Order 9 have been complied with.

## **16. Advertising of Contracts**

**16.1** In terms of the Reform Act and 2015 Regulations, the Council has a duty to ensure that contracts are procured in accordance with the principles of non-discrimination on grounds of nationality, equal treatment and transparency.

**16.2** Contract opportunities that are subject to the requirements of the Reform Act or the 2015 Regulations must comply with the provisions relating to advertising of contracts set out in that legislation.

**16.3** All contract opportunities shall be advertised using Public Contracts Scotland, Scotland, unless a decision has been reached by reason of either Standing Order 5 or Standing Order 30 that the contract opportunity is to be awarded without advertising.

## **17. Tender Documents**

**17.1** The tender documents shall clearly set out the proposed method of evaluation as well as the scope, timing, quality and quantity of the Works, Services and Supplies required by the Council.

**17.2** Standard terms & conditions for Supplies and Services, and approved industry model form contracts for Works, shall be used in all contracts to which these Standing Orders apply, where the Council is the lead procurer.

## **18. Technical Specification**

**18.1** Formal specifications or statements of requirement shall be developed, in compliance with Regulation 43 of the 2015 Regulations for Regulated Procurements above the GPA Threshold and Regulations 11 and 12 of the 2016 Regulations for Regulated Procurements below the GPA Threshold, by the relevant Service Team Representative with support from the Procurement Officer for all tendered or quoted requirements for Supplies, Services or Works, which will fully define what the Supplier is to provide.

**18.2** Specifications shall not be accepted as final until the Procurement Officer and/or Service Team Representative, where appropriate, are satisfied as to their affordability.

**18.3** The Service Team Representative must ensure that technical specifications for Regulated Procurements give equal access to all interested parties and do not create

unjustified obstacles to the opening up of public procurement to competition or encouraging innovation. The Service Team Representative shall specify requirements for award criterion in generic, technical or performance terms. Technical specifications must not refer to materials or goods of a specific make or source or to a particular process or trademark, patent, type, origin or means of production which has the effect of favouring or eliminating particular suppliers.

**18.4** The requirement may only be dispensed with in exceptional circumstances, where the subject of the contract cannot otherwise be described by reference to technical specifications which are sufficiently precise and intelligible to all suppliers. However, where this exception applies, any such references in the technical specification must be accompanied by the words “or equivalent”. Where a technical specification does make such a reference, a written justification shall be provided as part of the contract notice or invitation to participate or quote, including an explanation as to why it was not possible to describe the product by reference to technical or performance characteristics.

**18.5** The Service Team Representative may include references in specifications to mandatory technical rules which go beyond the relevant legislative standards, provided these are non-discriminatory and without prejudice to any relevant national or international standards or specifications.

## **19. Standards**

**19.1** Where an appropriate and recognised international or European Standard or British Standards Specification or British Standard Code of Practice is current at the date of the Invitation to Tender, every contract shall require that, all goods and materials used or supplied and all workmanship shall at least meet the requirements of that Standard, unless otherwise approved by the appropriate Chief Officer or Designated Officer. In the absence of any such recognised standards, the Tender document shall require an appropriate equivalent standard be used.

## **20. Intellectual Property Rights**

**20.1** The Chief Officer or Designated Officer shall, in so far as practicable, ensure that in contracts for procuring reports, guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models and designs developed by the Supplier, on behalf of the Council, shall vest in the Council absolutely.

## **21. Prevention of Collusion and Corrupt Illegal Practices**

**21.1** Every contract shall contain a clause entitling the Council to cancel the contract and to recover from the Supplier the amount of any loss resulting from such cancellation if the Supplier or his representative (whether with or without the knowledge of the Supplier) shall have practised collusion in tendering for the contract or any other contract with the Council or shall have employed any corrupt

or illegal practices either in the obtaining or execution of the contract or any other contract with the Council, or have been convicted of an offence under Section 1 of the Bribery Act 2010.

**21.2** North Ayrshire Council supports the Scottish Governments policy on ensuring that public contracts are awarded to legitimate businesses and has signed up to an Information Sharing Protocol with Police Scotland to share information about organisations who bid for public contracts.

## **22. Equality**

**22.1** Every contract shall contain an Equality clause to provide assurance that, the Supplier has complied with all statutory requirements in respect of ensuring equal opportunity in employment; and that it is not unlawfully discriminating within the meaning and scope of the provisions of the Equality Act 2010 (or any statutory modification or re-enactment thereof) including but not limited to discrimination on grounds of gender, marital or civil partnership status, race, disability, gender reassignment, religion or belief, sexual orientation, age, pregnancy or maternity leave.

## **23. Public access to information**

**23.1** The Freedom of Information (Scotland) Act 2002 came into force on 1st January 2005. The Act gives a statutory right of access to all information held by Scottish Public Authorities, except where an exemption can be applied. All terms and conditions and invitations to tender/bid, give notice of this.

**23.2** On occasions, parties with whom the Council contracts will seek to incorporate stipulations that all or some information is provided in confidence. No such provision should be accepted without the prior approval of the Head of Democratic Services.

**23.3** In all cases other than those specifically approved by the Head of Democratic Services all contract conditions should include the following provision:

- All information submitted to the Council may need to be disclosed and/or published by the Council in compliance with the Freedom of Information (Scotland) Act 2002 and/or the Environmental Information (Scotland) Regulations 2004, (the decisions of the Council in the interpretation thereof shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms), any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure.

**23.4** Further, the Council may also disclose all information submitted by the tenderer to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish or the United Kingdom Parliament it is recognised and agreed by both parties that the Council shall disclose such information but are unable to impose any restrictions upon the information that they provide to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.

**23.5** Accordingly, if tenderers consider that any of the information included in their tender is commercially confidential, please identify it and explain (in broad terms) what harm might result from disclosure and/or publication. It should be remembered though, that, even where tenderers have indicated that information is commercially sensitive, the Council may disclose this information. Receipt by the Council of any material marked "confidential" or equivalent should not be taken to mean that the Council accept any duty of confidence by virtue of that marking.

**23.6** The Council will publish, on the Public Contracts Scotland website, the names and contact details of successful tenderers for contracts over £50,000 for Supplies and Services and £500,000 for Works.

## **24. Sustainability**

**24.1** Sustainable procurement incorporates environmental, economic, and social considerations. The Council is legally bound by the Sustainable Procurement duty in the Reform Act to consider sustainability and procure responsibly and in a way that delivers community well-being, minimises use of resources and prevents environmental degradation. Where relevant to the subject matter of the contract, consideration should be given to:

- Limiting energy and water consumption during delivery of the requirement
- The use of non-toxic substances and renewable materials
- Disposal, reuse and recycling options at the end of life
- Incorporation of recycled or part recycled goods and energy efficient products
- Encouraging local recruitment and training of staff employed in the delivery of the contract
- Involving Small and Medium Enterprises (SME's), Third Sector Bodies and Supported Businesses

- Promoting innovation – Innovation in design and delivery of public services, procurement of innovative goods and services and use of innovative procurement processes
- Ensuring every contract shall not provide Goods or Services
  - which may endanger the health of any person
  - cause significant damage to the environment during manufacture,
  - where use or disposal, consumes a disproportionate amount of energy during manufacture,
  - where use or disposal, causes unnecessary waste, or contains materials derived from threatened species or environments.

## **25. Community Benefits**

**25.1** A Community Benefit clause must be considered as a contractual requirement for any procurement of which the estimated value is equal to or greater than £50,000 for Supplies and Services and over £100,000 for works. For contracts up to the value of £499,999 the Community Benefits are voluntary and for contracts £500,000 or over Community Benefits are mandatory.

**25.2** The Procurement Officer in consultation with the Community Benefit Officer will determine if there is an opportunity to deliver community benefits and include details of the Community Benefits required in the contract notice. If there is no community benefit requested, the notice must give reasons why.

**25.3** The Council must ensure the requirements are in line with the relevant procurement legislation and the Council must ensure that the Community Benefit clause does not amount to direct or indirect discrimination.

**25.4** The Community Benefits Officer must ensure that robust arrangements are in place to monitor Community Benefits and the outcomes delivered are recorded and reported.

## **26. Assignment/Novation**

**26.1** In every contract, there shall be included a provision whereby:

- The Supplier shall be prohibited from transferring, assigning or sub-contracting a contract or any part thereof without the prior written consent of the Council
- The Supplier shall be prohibited from changing any sub-contractors from those noted in the Suppliers response documents without the prior written consent of the Council

**26.2** In every contract, there shall be included a provision whereby:

- If a Supplier's name changes, but their company registration remains the same, they will provide the Council with a copy of their "Certificate of Incorporation on Change of Name"
- If a Supplier's company registration number changes, the Council have the right to terminate the contract or continue the contract, providing, pre-qualification and quality criteria applied to the original contract are met and a Deed of Novation is signed confirming they accept all contractual obligations and liabilities within the contract.

## **27. Health & Safety**

**27.1** Every Supplier appointed by or on behalf of the Council shall be required to comply with current Health and Safety legislation and approved Codes of Practice, as may be applicable to the contract. The Chief Officer or Designated Officer will have the ultimate decision as to whether a Supplier's Health and Safety qualification is equal to that required by the Council or in an approved form.

**27.2** In the case of contracts for construction type works, in addition to the aforementioned, Suppliers appointed by or on behalf of the Council shall be required to submit evidence (prior to entering a contract) of a UKAS (or equivalent) accredited independent third-party certificate of compliance in accordance with ISO 45001 (or equivalent) or have, within the last 12 months, successfully met the assessment requirements of a construction-related scheme in registered membership of the Safety Schemes in Procurement (SSIP) forum, or they must have a regularly reviewed and documented policy for Health and Safety management

## **28. Insurance**

**28.1** Every contract shall contain a clause which requires the Supplier to take out and maintain, for the duration of the contract, such insurance cover for such amounts as the Chief Officer or Designated Officer and the Insurance Team may deem relevant to the contract, including, if appropriate, but not restricted to:

- Employers Liability Insurance

- Public (Third Party) Liability Insurance
- Product Liability Insurance
- Professional Indemnity Insurance, which shall remain in force for a period of six years beyond the end of the contract
- Third Party Motor Vehicle Insurance
- Other such specialist classes of insurance as advised by the Senior Manager (Internal Audit, Fraud, Safety & Insurance)

## 29. Performance Bonds and Parent Company Guarantees

**29.1** Where considered necessary by the Chief Officer or Designated Officer, the Council shall require the Supplier to take out a bond, obtain and deliver a formal parent company guarantee or provide other sufficient security for the due performance of the contract.

## 30. Tendering Procedures

**30.1** Subject to the provisions of Standing Order 5.2, where the total contract value exceeds £50,000 (Supplies and Services) and £500,000 (Works) formal tenders will be obtained by one of the following methods:

Type of Contract	Threshold*	Procedure
Supplies & Services	Over £50k	<ul style="list-style-type: none"> <li>• Open Tender</li> <li>• Restricted Tender</li> </ul>
Works	Over £500k	<ul style="list-style-type: none"> <li>• Open Tender</li> <li>• Restricted Tender</li> </ul>
Supplies, Services & Works	>GPA	<ul style="list-style-type: none"> <li>• Negotiated Procedure without Prior Publication of a Notice</li> <li>• Competitive Procedure with Negotiation</li> <li>• Competitive Dialogue Procedure</li> <li>• Innovation Partnerships</li> </ul>

\*Wherever VAT may be payable under a contract, the Council must ensure that an allowance for VAT is included in the calculation of the estimated value of the contract for the purposes of determining whether the contract equals or exceeds the GPA threshold.

**30.2** The relevant Chief Officer or Designated Officer in consultation with the Procurement Officer will determine through market research which procedure will be used to maximise competition.

**30.3** For all procedures apart from Standing Orders 30.6, the relevant Designated Officer shall seek tenders from any organisations registered on Public Contracts Scotland and Public Contract Scotland Tender.

#### **30.4 Open Tender**

This procedure shall apply when after consultation the Procurement Officer, Service Team Representative and the Chief Officer or Designated Officer decide that tenders for a contract shall be obtained by open competition. The Procurement Officer shall publish a contract notice on Public Contracts Scotland. The notice shall:

- Specify the nature and purpose of the contract
- Detail selection criteria
- Detail award criteria
- Detail a tender return deadline

A minimum of 21 days must be allowed for below GPA threshold procurement and 25 days for above GPA threshold procurements, between the notice published date and the tender return deadline, or at least 10 days if a Prior Information Notice (not a call for competition) has been published within 35 days and 12 months from date of contract notice.

#### **30.5 Restricted Tender**

This procedure shall apply when after consultation the Procurement Officer, Service Team Representative and the Chief Officer or Designated Officer decide to use a shortlisting process which limits invitations to tender to the applicants responding to a notice. Before inviting tenders, the Procurement Officer shall publish a notice on Public Contracts Scotland. The notice shall:

- Specify the nature and purpose of the contract
- Detail selection criteria
- Detail the SPD return deadline

A minimum of 14 days should be allowed for below GPA threshold procurements and 25 days for above GPA threshold procurements between the notice published date and the SPD return deadline (unless otherwise agreed with the Senior Manager (Corporate Procurement) or Designated Officer).

After the SPD return deadline an Invitation to Tender document shall be issued by the Procurement Officer via Public Contracts Scotland Tender to a minimum of five providers, where possible. Where less than five SPD returns are received from providers advice/approval must be sought from the Senior Manager (Corporate Procurement) or Designated Officer before proceeding.

As soon as practical after deciding to exclude applicants from the Tender list unsuccessful applicants must be given a notice of:

- The names of the applicants proceeding to the second stage
- The criteria used to exclude the applicant
- The applicants scoring against the maximum scoring available and the winning bidder(s) score.

The Invitation to Tender document shall:

- Specify the nature and purpose of the contract
- Contain all tender documentation (including award criteria)
- Include the tender return deadline

A minimum of 21 days for below GPA threshold procurements and 25 days for above GPA threshold procurements should be allowed between the notice publish date and the tender return deadline or at least 10 days if a Prior Information Notice (not a call for competition) has been published within 35 days and 12 months from date of contract notice.

### **30.6 Negotiated Procedure without Prior Publication of a Notice (Above GPA)**

Negotiated Procedure without Prior Publication should only be used in very exceptional circumstances. These exceptions should be limited to cases, where publishing a call for competition is not possible such as situations:

- Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted for a previous Open or Restricted tender exercise, provided that the initial conditions of the contract are not substantially altered. A Tender shall be considered not to be suitable where it is irrelevant to the contract, being manifestly incapable, without substantial changes, of meeting the organisation's needs and requirements as specified in the procurement documents. A request to participate shall be considered not to be suitable where the bidder has been or would have been excluded or where it does not meet the selection criteria.
- Where the supplies or services can be supplied only by a particular supplier for any of the following reasons:

- The aim of the procurement is the creation or acquisition of a unique work of art or artistic performance
- Competition is absent for technical reasons (only if it is not caused by artificial narrowing down of the parameters of the procurement and no reasonable alternative or substitute exists)
- The protection of exclusive rights, including intellectual property rights (only if it is not caused by artificial narrowing down of the parameters of the procurement and no reasonable alternative or substitute exists)
- Where it is strictly necessary for reasons of extreme urgency (where the time limits for the Open or Restricted Procedure or Competitive Procedure with Negotiation cannot be complied with) brought about by events unforeseeable and not attributable to the Organisation, such as emergency situations affecting the public e.g., flooding.

Negotiated Procedure without Prior Publication in case of **Goods**:

- Where the products involved are manufactured purely for the purpose of research, experimentation, study, or development, but not including quantity production to establish commercial viability or to recover research and development costs. Note this should not be abused to allow a single supplier to be approached to design an item which must subsequently be purchased as a result of proprietary rights
- Where a change in supplier(s) would mean that the Organisation would have compatibility issues or disproportionate technical difficulties; this procedure can be used to acquire additional deliveries from the original supplier when needed to replace or increase supplies or installations. In this case, the contract or recurrent contract length must not exceed three years, other than in exceptional circumstances
- For supplies quoted and purchased on a commodity market
- For the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.

Negotiated Procedure without Prior Publication in case of **Services**:

- Where the contract concerned follows a design contest organised in accordance with the 2015 Regulations and where the contract concerned is to be awarded as part of the design contest to the winner or winners. Where there is more than one winner of the design contest, all of them must be invited to participate in the negotiation
- In instances when all the following apply:

- Where it is for new services consisting of the repetition of similar services performed by the supplier to which the Organisation awarded an original contract, provided that such services are in conformity with the basic project for which the original contract was awarded, and the award indicated the extent of possible additional services and the conditions under which they would be awarded
- The possible use of this procedure was disclosed in the procurement documents and the total estimated cost of subsequent services was taken into consideration by the organisation when applying the thresholds in relation to the original contract
- Not more than three years have elapsed following the conclusion of the original contract.

As with all aspects of the Procurement Journey, the activities at this stage must be carried out in a carefully managed manner that supports the principles of procurement. As a minimum the processes must be carried out in a transparent way that ensures there is no distortion of the marketplace, the outcome cannot be a procurement that unduly favours or disadvantages a particular Supplier, and it is the responsibility of the organisation to make sure that these requirements are met.

Use of this procedure must be justified; it can only be used in situations which have not been created by the Council. Reasons why there are no reasonable alternatives or substitutes such as using alternative distribution channels including outside the UK or considering functionally comparable Supplies and Services. Where the situation of exclusivity is due to technical reasons, they should be rigorously defined and justified on a case-by-case basis. Technical reasons may also derive from specific interoperability requirements which must be fulfilled in order to ensure the functioning of the Works, Supplies or Services to be procured. When fixing any time limits the Council must take account of the complexity of the contract.

A Contract Notice will not be published in this procedure. The only procurement documents which may be published would be a Voluntary Ex- Ante Transparency (VEAT) Notice which an Organisation can use to protect itself by sending a VEAT Notice to GPA prior to entering the contract. It is still mandatory to publish a Contract Award Notice with this procedure.

### **30.7 Competitive Procedure with Negotiation (above GPA)**

The Competitive Procedure with Negotiation lets you clarify bids after their submission of fully formed initial tenders. This procedure may be used:

- If you unable to define how to meet your needs technically and/or you cannot specify the legal or financial requirements of your contract
- For procuring Services or Goods that require adaptation or design inputs

- In cases of complex purchases, such as sophisticated products, intellectual services or major information and communication technology tools

Under this procedure:

- The contract notice will make it clear that the competitive procedure with negotiation is being used
- Any Supplier may make a request to participate
- The request to participate must be accompanied by an SPD
- Following assessment of the submitted SPDs, the buyer will invite suppliers that meet the selection criteria to the initial tender phase
- You may have to start a dialogue with bidders to guarantee a satisfactory outcome of the procurement process
- This may result in a new or revised tender being issued
- Finally, leading to a contract award

A record of clear reasons for selecting this approach is required and commercial confidentiality is of key importance in employing this procedure.

### **30.8 Competitive Dialogue Procedure (above GPA)**

Competitive Dialogue can be used:

- Greater flexibility is needed e.g., highly complex and risky projects
- you are procuring innovative projects
- you are unable to specify your requirements e.g., your technical, financial or legal solutions. Therefore, bidders may have a major role in defining the solution
- You cannot assess without in-depth dialogue on what the market can offer or
- The Open or Restricted Procedures may not deliver the expected outcomes.

Under this procedure:

- The contract notice will make it clear that the competitive dialogue procedure is being used and will also set out the award criteria which the public body will apply during the dialogue stage
- Any Supplier may make a request to participate
- The request to participate must be accompanied by an SPD
- Following assessment of the submitted SPDs, the buyer will conduct a dialogue with the Suppliers which meet the selection criteria. The aim of the dialogue will

be to develop one or more suitable alternative solutions capable of meeting the requirements

- Based on this dialogue the buyer will select Suppliers to invite to tender.

A record of clear reasons for selecting this approach is required and commercial confidentiality is of key importance in employing this procedure.

### **30.9 Innovation Partnerships (above GPA)**

Innovation Partnerships can be used where there is a need to develop an innovative product or Service and there is no existing product or solution currently available on the market. Under this procedure:

- The contract notice will make it clear that the innovation partnership procedure is being used
- Any Supplier may make a request to participate
- The request to participate must be accompanied by an SPD
- Following assessment of the submitted SPDs, the buyer will use a negotiated approach to invite Suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market
- The public body is allowed to award partnerships to more than one supplier

A record of clear reasons for selecting this approach is required and commercial confidentiality is of key importance in employing this procedure.

### **30.10 Public Social Partnerships (PSP)**

A PSP is a strategic partnering arrangement which involves the third sector earlier and more deeply in the design and commissioning of public services.

The third sector is often best placed to interact closely with communities and its involvement can mean that people have more choice and control over what services are delivered locally. A PSP differs from other commissioning approaches in that it starts with the need to be addressed, not the services available.

A PSP typically comprises 3 stages:

- Third sector organisations work with the public sector purchasers to design a service
- A short-term pilot may be run to help refine the service delivery parameters
- The Service is further developed to maximise community benefit before being competitively tendered, typically within three-four years

The Senior Manager (Corporate Procurement) or Designated Officer must be consulted and agree that a PSP is the correct approach.

## **31. Electronic Tendering**

**31.1** All tenders must be advertised by electronic means through Public Contracts Scotland and the tender process will be progressed through the Public Contracts Scotland Tender e-tendering system. All Quick Quotes, Dynamic Purchasing Systems Invitations to tender and Mini Competitions will be invited, and submissions accepted via Public Contracts Scotland Tender.

## **32. Submission of Tenders**

**32.1** The Invitation to Tender shall state that a Tender will not be considered unless it is received electronically by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this clause shall be considered.

**32.2** All invitations to tender shall include the following: -

- A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers
- A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any party (except where such a disclosure is made in confidence for a necessary purpose)
- A requirement for tenderers to complete fully and sign all relevant tender documents including a form of tender
- Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense
- A description of the award procedure and evaluation criteria (including quality/price ratio, weighted quality criteria and price scoring model). The award

procedure and evaluation criteria must remain unchanged throughout the tender process

- The method by which any arithmetical errors discovered in the submitted tender is to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

**32.3** All Invitations to Tender must specify the Supplies, Services or Works that are required, together with the terms and conditions of contract that will apply.

**32.4** The Invitation to Tender must state that the Council is not bound to accept any tender or accept any part of any tender.

**32.5** All candidates invited to tender must be issued with the same information at the same time and subject to the same conditions through Public Contracts Scotland or Public Contract Scotland Tender. Any supplementary information must be provided on the same basis.

**32.6** Candidates invited to respond must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the urgency of the contract requirement. Normally at least 3 weeks should be allowed for submission of tenders. For all tenders that exceed the GPA threshold, the GPA timescales will apply.

### **33. Late Tenders**

**33.1** No tenders received after the closing date and time for submission shall be considered. Where a tender is late due to a failure or lack of availability of the electronic tendering platform, and which is not attributable to the tenderer or as the case may be their agent, the express approval of the Senior Manager (Corporate Procurement) shall be required to admit the tender for consideration.

### **34. Opening of Tenders**

**34.1** Due to the system controls in place all Tenders shall be opened by an authorised user, using the parallel opening functionality on Public Contracts Scotland or Public Contract Scotland Tender as soon as it is practical to do so.

**34.2** The Senior Manager (Corporate Procurement) or Designated Officer shall ensure that for each e-tendering project, the system shall keep and, if required, produce a record showing the date and time when Tenders were opened.

## **35. Checking of Tenders**

**35.1** All Tenders shall be subject to checking for completeness and errors by an appropriate officer nominated by the Chief Officer of the service concerned. Any arithmetical errors that result in a change to the pricing submitted must be documented.

**35.2** Tenders for construction works shall be checked in accordance with current industry best practice and relevant practice notes, such as JCT Tendering 2017 Practice Note, where deemed appropriate to do so.

## **36. Evaluation of Tenders**

**36.1** Apart from the notification required or permitted by Standing Order 36.3:

- Confidentiality of qualification, quality and commercial responses, and the identity of bidders must be preserved at all times, including during the Procurement Exercise process and after the contract is awarded
- Information about one candidate's response must not be given to another candidate

**36.2** During the evaluation process, Officers will be given access to information about the Tender responses or the identity of tenderers. This information must be kept confidential as it could be commercially sensitive, or subject to a non-disclosure agreement. This information must not be shared out with those involved in the evaluation or decision approval process. The only information that will be disclosed publicly after the award of the contract will be the awarded Supplier's company name and bid value. Unsuccessful bidders will be provided with the costs and quality score of the winning bid and their own cost and quality score.

**36.3** Contracts must be evaluated and awarded in accordance with the Award Criteria stated in the contract notice or tender documents and in compliance with Standing Order 32.2.

**36.4** Where genuine pricing errors are found, they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the individual figures in the Tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended Tender price may be requested to accord with the figures given by the tenderer.

**36.5** Chief Officers or Designated Officer shall ensure that submitted Tender prices are compared with any pre-tender estimates/budgets and that any discrepancies are examined and resolved satisfactorily.

**36.6** Where changes to the Tender are reasonable by the tenderer, and where such change is viewed to be reasonable by Council staff, erroneous figures shall be adjusted, and the Tender recalculated arithmetically. Changes to the Tender figure should be signed by the tenderer. A letter or email from the tenderer, confirming and agreeing to the changes in erroneous figures shall also be appended to the Tender response documents.

**36.7** The original Tender form shall be amended to reflect the outcome of any new Tender offer and the changes shall be signed by the tenderer.

**36.8** At the end of the evaluation process, Tender evaluation summary sheets shall be endorsed by the Evaluation Panel.

**36.9** The evaluation panel must be made up a panel of at least 2 for Tenders over the value of 50K for Supplies and Services and £100K for works.

**36.10** Tenders received in respect of proposed contracts should only be accepted where they have been sought and evaluated fully in accordance with these Standing Orders.

## **37. Abnormally Low Bids**

**37.1** Investigating abnormally low bids is a mandatory obligation. Any Tender considered to be an abnormally low bid in relation to either the proposals or the anticipated contract value must be investigated and clarified.

**37.2** Any such proposal should be excluded from any further consideration in the event that investigation and clarification fail to resolve identified issues. The Procurement Officer must consult with the Senior Manager (Corporate Procurement) before any final decision is taken.

## **38. Post Tender Clarifications**

**38.1** Between the last date and time for the receipt of Tenders and the date on which a decision is taken as to which, if any, tender is to be accepted, the Senior Manager (Corporate Procurement) or any Procurement Officer designated by them may

contact a tenderer in respect of any tender submitted in order to seek clarification on the terms of the Tender.

**38.2** Where any factor giving rise to post tender clarifications is not specific to one tenderer, all tenderers must be invited to participate in such clarification communications. There must be no material change to the specification(s) and/or criteria on which Tenders are to be evaluated. If it becomes apparent that a material change is required, the tendering process must be recommenced with a revised specification or award criteria.

**38.3** A full written record shall be kept of all such clarifications and shall be retained with the original Tender.

**38.4** This provision shall not be used in any way to permit any tenderer to amend their bid in a manner that allows them to improve their offer, nor to put other tenderers at a disadvantage nor to distort competition. All tenderers must be treated at all times equally and in an open, transparent and fair manner.

**38.5** For all GPA tenders a mandatory standstill period must be observed before a contract can be awarded, see Standing Order 40.5.

## **39. Post Tender Negotiations**

**39.1** Once the evaluation of tenders has been completed in accordance with Standing Order 36, the Chief Officer may request the Senior Manager (Corporate Procurement), or any Procurement Officer designated by them to enter into post Tender negotiations. Such negotiations shall take place with the tenderer who has submitted the Most Economically Advantageous Tender for a contract; and where there is scope for improvement in the Tender received and that such negotiations will be in the best interests of securing Best Value and improved terms and conditions for the Council.

**39.2** Where it is considered possible that post tender negotiations might apply, a clear indication will be given to prospective Suppliers in the instructions to tenderers that post tender negotiations might be considered.

**39.3** A full record (which shall include copies of all written communications) shall be kept by the Corporate Procurement Unit of all contracts where post tender negotiations have been used and the written record will be retained with the original Tender. The written record will include the justification for authorising post Tender

negotiations, the nature of the negotiations undertaken, the outcome of such negotiations and shall detail any additional terms agreed by the Council.

**39.4** This Standing Order 39 shall not be used in any way to put any tenderer at a disadvantage or to distort competition, and it shall not be used to make any change to the specification(s) and/or criteria on which the identified Tender is to be assessed.

## **40. Acceptance of Tender**

**40.1** Every Tender issued shall state the award criteria as the Most Economically Advantageous Tender. Lowest price is no longer legally compliant for procurements over £50K for Supplies and Services and over £500K for Works. The evaluation of all bids received shall take place in accordance with the criteria specified in the tender documentation.

**40.2** No Tender shall be accepted unless:

- The appropriate Chief Officer or Designated Officer is satisfied that the selection criteria stated within the tender have been met
- The appropriate Chief Officer or Designated Officer is satisfied, in accordance with the award criteria, that the tender is the Most Economically Advantageous Tender and technically compliant proposal for the Council.

**40.3** Tenders for contracts where the total contract value (including optional extensions and collaborative partners spend) does not exceed £500,000 shall be accepted upon written approval of the appropriate Chief Officer and Designated Officers. For Procurement Exercises over £50,000 for Supplies and Services and over £100,000 for Works a tender outcome report will be prepared setting out details of the bids received. Subject to the procedures of Standing Orders 40.2 being adhered to, the contract acceptance and award letter will be issued by the Senior Manager (Corporate Procurement) or Designated Officer.

**40.4** Where the value of the contract is more than £500,000 (including optional extensions and collaborative partners spend), a tender outcome report will be prepared setting out the details of the tenders received. A tender shall be accepted upon the written approval of the Chief Executive, Chief Officer and Senior Manager (Corporate Procurement). In the absence of the Chief Executive, such tenders shall be accepted on the written approval of an appropriate Executive Director (from out with the Procuring Directorate) in consultation with the Monitoring Officer/Chief Finance Officer, the appropriate Chief Officer (from the procuring Service and Senior Manager (Corporate Procurement). Subject to the procedures of Standing Order

40.2 being adhered to, the contract acceptance and award letter will be issued by the Senior Manager (Corporate Procurement) or Designated Officer

**40.5** For all tenders over the GPA threshold a Mandatory Standstill Period must be observed prior to the award of contract. The Mandatory Standstill Period must be for a period of at 10 calendar days.

## **41. Form of Contract**

**41.1** Except where otherwise agreed by the Chief Executive or Designated Officer and the Head of Democratic Services every contract shall be in writing, shall be signed by the appropriate Chief Officer, Designated Officer or other officer specifically authorised by him/her for this purpose and shall be subject to the laws of Scotland and the jurisdiction of the Scottish Courts.

## **42. Nomination of Sub-Contractors**

**42.1** Where the Council nominates a sub-contractor or supplier to a main contractor, in the absence of any statutory requirements setting out different procedures, all tenders must be invited by the Council in accordance with the relevant tendering procedures laid down in these Standing Orders.

**42.2** The terms of the invitation will require an undertaking by the tenderer that, if selected, they will be willing to enter into a contract with the main contractor in terms which may indemnify the main contractor against their own obligations under the main contractor for the work goods or services included in the sub-contract.

## **43. Contract Register**

**43.1** The Reform Act requires the Council to publish an external Corporate Contract Register. The Corporate Procurement Unit shall be responsible for updating the Council's Contracts Register. The contract register must include the:

- Contract name and description
- Contract reference number
- Contract value
- Supplier name and address details
- Commencement date for contract
- Termination date for contract

- Any optional extension dates

**43.2** It is the responsibility of Chief Officers or their Designated Officer to regularly review the contract register to ensure that the register accurately reflects all known contracts. Chief Officers or Designated Officer should notify the Corporate Procurement Unit of any new contracts or required amendments in order that the Council can meet the legal requirement of publishing an accurate complete Corporate Contract Register.

## **44. Modifications to Contract**

**44.1** Consideration must be taken of the value, type and scope of the modification relevant to the original contract. Modifications cannot be considered if the terms and conditions of the contract do not allow for this or if the value and/or scope of the modification are significantly different from the original contract.

**44.2** Any modifications to the scope, duration, terms and conditions or value, should not be agreed without the prior approval of the Senior Manager (Corporate Procurement) or Designated Officer and without having necessary budget provision. If the modification to contract is approved, the Corporate Procurement Unit will issue contract modification letters.

**44.3** For Taxis or other Services, with a high frequency/quantity of modifications, details of all modifications to contract must be held in writing by the relevant Service Team Officer. Modifications not issued by the Corporate Procurement Unit must be agreed with the Senior Manager (Corporate Procurement).

## **45. Termination of Contracts**

**45.1** Every contract shall contain a provision allowing for the contract to be terminated.

**45.2** The Chief Officer or Designated Officer may request to terminate any contract or the Council's participation in a framework agreement, subject to consultation with the Head of Democratic Services and the Senior Manager (Corporate Procurement.)

**45.3** Any termination shall be subject to the Head of Democratic Services and the Senior Manager (Corporate Procurement) being satisfied that it is reasonable and in the interests of the Council to exercise that power.

**45.4** Details of all terminations to contract must be held in writing and copies retained by the Corporate Procurement Unit.

## **46. Post Contract Monitoring and Evaluation**

**46.1** During the life of the Contract the Contract and Supplier Management Policy contained within the Procurement Manual will apply.

## **47. Interest of Members**

**47.1** A member of the Council with a personal interest in a matter who attends the meeting of the Council at which the matter is considered must disclose to that meeting the existence and nature of that interest at the beginning of that meeting or when the interest becomes apparent, in compliance with the Councillor's Code of Conduct in terms of Section 1 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

**47.2** A member with a personal interest in a matter also has a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the member's discussion or decision making in their role as a Councillor. A member with a prejudicial interest in any matter must:

- Withdraw from the room where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting; and
- Not seek improperly to influence a decision about that matter

## **48. Interest of Officers**

**48.1** In addition to his or her duty under Section 81 of the 1973 Act and the requirements of the 2003 Act, if any officer of the Council finds that he or she has a disclosable financial interest in any contract which has been or is proposed to be entered into by the Council or in some other matter which is to be considered by the Council or any of its Committees or Sub-Committees other than:

- A contract of employment under which he or she serves the authority or
- The tenancy of a dwelling provided by the Authority

He or she must as soon as practicable give notice of the fact in writing to the Chief Executive.

**48.2** For the purpose of this section, a disclosable financial interest is an interest that, if the officer were a member of the Council and if the contract or other matter were to be considered at a meeting of the Council at which he or she were present, he or she would have to disclose under the provision of the Councillor's Code of Conduct referred to in Standing Order 47.1.

**48.3** The Chief Executive shall record in a register to be kept for the purpose, particulars of any notice of a financial interest given by an officer under Section 81 of the 1973 Act or under paragraph 87.1 of the Standing Orders.

## **49. Disposal of Surplus or Scrap Materials/Equipment**

**49.1** These standing orders also apply for the disposal of surplus of scrap materials and equipment. The Chief Executive may authorise the adoption of an appropriate method of doing so following a recommendation from the Chief Officer of the Service concerned. This method should be adopted in line with the provisions contained within these standing orders and where more than one offer is received, the highest satisfactory offer will be accepted.

## **50. Disposal of Interest in Land and Building**

**50.1** The Policy for Property Acquisition and Disposal as set out in Annex B shall apply to the making of contracts for the disposal by the Council of its interest in land or buildings (including the disposal by lease thereof, other than leases by the Council for periods not exceeding 5 years) where the interest has been declared surplus to the Council's requirements. Except in cases of community transfers (in accordance with the Council's policy for the Transfer of Assets to the Community), or otherwise in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010 where more than one offer is received the highest satisfactory offer shall be accepted. Any disposal for less than the recorded value must fulfil the requirements of the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

## **51. Variation and Revocation**

**51.1** These Standing Orders may be varied or revoked by the Council and any motion to vary or revoke these Standing Orders (which motion shall conform to the requirements of Standing Order 22 of the Standing Orders Relating to Meetings and

Proceedings of the Council and Committees) shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **52. Thresholds and VAT**

**52.1** All monetary thresholds contained within the Standing Orders are exclusive of VAT, unless otherwise stated.

## **53. Commencement**

**53.1** These Standing Orders Relating to Contracts shall apply and have effect from 19 May 2022. These Orders supersede the Standing Orders approved by the Council on 23 September 2020.

## Annex A – Single Tender Action Request



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

### SINGLE TENDER ACTION REQUEST (“STAR”) OVER 5K

Please complete the relevant sections and return the form by email to:  
[procurement@north-ayrshire.gov.uk](mailto:procurement@north-ayrshire.gov.uk)

#### SECTION 1 – SERVICE DETAILS

<b>Service details</b> Please provide the service details below.
Service:
Service officer name:
Telephone number:
Date of request:
Contract Administrator’s Name:

#### SECTION 2 – BACKGROUND

<b>2.1 Working title</b> Please provide a short specific title e.g. Supply and Delivery of Office Furniture to St Matthew’s Academy.
<b>2.2 Description</b>

Please provide a comprehensive description of the requirement.

### 2.3 Recurring

Please select if this is a one-off requirement or a recurring requirement.

One-off requirement

Recurring requirement

## SECTION 3 – JUSTIFICATION

### 3.1 Suppliers/Contractors/Service Providers details

Please provide the suppliers/contractors/service providers details below.

Name:

Street:

Town:

Postcode:

Telephone number:

Email address:

### 3.2 Quote

Please confirm you have a valid quote from the supplier/contractor/service provider.

Yes  No

If yes, a copy must be attached.

### 3.3 Reason for requesting a STAR

Please confirm the reason for requesting a STAR and provide justification to demonstrate why a competitive quote / tender is not possible.

### 3.4 Value for money

Please confirm how you have evidenced value for money in the absence of competition.

### 3.5 Exemption reason

Please select the exemption reason(s) below from the [Procurement \(Scotland\) Regulations 2016](#) by selecting the relevant tick box below (other options must not be deleted).

Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to the publication of a contract notice, provided that the initial conditions of the contract are not substantially altered

Where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

(i) the aim of the contract is the creation or acquisition of a unique work of art or artistic performance

(ii) competition is absent for technical reasons

(iii) the protection of exclusive rights, including intellectual property rights

but only, in the case of paragraphs (ii) and (iii), where no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement

Where (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the authority considers it must proceed to award a contract without delay

Where the products involved are manufactured purely for the purpose of research, experimentation, study or development, but a contract awarded under this sub paragraph shall not include quantity production to establish commercial viability or to recover research and development costs

For additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the duration of such a contract, as well as that of recurrent contracts must not, save in exceptional circumstances, exceed three years

For supplies quoted and purchased on a commodity market

For the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations

## SECTION 4 – INSURANCE

It is the services responsibility to ensure that the insurances required reflects the risk in the contract, and should consider:

- level of risk in the contract
- worst-case scenario and the likelihood of this occurring given the contract controls
- high value/high risk contracts, the standard levels may not be sufficient and specialist input from the Council’s broker advisory service might be required

If you are unsure, please email insurance at [insurance@north-ayrshire.gov.uk](mailto:insurance@north-ayrshire.gov.uk)

<b>Insurance type</b> Please complete the level of insurance required for the types of insurances relevant to this contract. If certain insurance types are not required, please leave blank.	<b>Level required</b>
<b>Public liability insurance</b> which covers injury, death or damage to property to a member of the public.	£1million <input type="checkbox"/> £5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Products liability insurance</b> which covers injury, death or damage to property to a member of the public as a result of defective products.	£1million <input type="checkbox"/> £2million <input type="checkbox"/> £5million <input type="checkbox"/>
<b>Employer’s liability insurance</b> which covers injury or death of an employer’s employee. The statutory minimum determined by law is 5 million.	£5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Professional indemnity insurance</b> which covers inadequate advice, professional services or designs that cause loss to the Council.  Professional indemnity may require to be held for a ‘run-off’ period. The Council’s standard period is 6 years following completion of the contract or earlier termination, or up to 12 years for complex construction contracts.	£1million <input type="checkbox"/> £2million <input type="checkbox"/> £5million <input type="checkbox"/> Period -
<b>Third-party motor vehicle insurance</b> which covers damage to property or injury to a member of the public. If a vehicle is	Yes <input type="checkbox"/> No <input type="checkbox"/>

likely to be used during the delivery of a contract it is reasonable to request this.	
<b>Contractors' all risks insurance ("CAR")</b> which is a non-standard insurance policy that provides coverage for property damage and third-party injury or damage claims, the two primary types of risks on construction contracts. CAR insurance not only covers those associated risks, but also bridges these two types of risks into a common policy designed to cover the gap between exclusions that would otherwise exist if using separate policies.	£
<b>Medical professional liability insurance</b> (also referred to as medical malpractice insurance) which covers healthcare professionals for carrying out wrongful practices which result in bodily injury, medical expenses, mental anguish or property damage.  Medical professional liability insurance may require to be held for a 'run-off' period. This is to ensure continuous cover is in place for any claims which may arise. The insurance should be held at the required level for a stipulated period (determined by the contract requirements) following completion of the whole of the services or earlier termination.	£  Period -
<b>Cyber liability insurance</b> which covers loss or damage to information within IT systems and networks, including cover from hackers causing damage or disruption to cyber information.  Cyber liability insurance may be required within contracts which require suppliers/contractors/service providers to host the Council's sensitive data or systems.	£

## SECTION 5 – INFORMATION GOVERNANCE & ICT SECURITY

### 5.1 Information governance

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no information governance implications.

If you answer yes to any of the questions, there are information governance implications and you must complete the information governance procurement framework ("IGPF") to ensure you have identified all relevant requirements to include in the STAR.

Please proceed to [Connects](#) to complete the IGPF checklist and the remaining IGPF steps.

You must not proceed with the STAR until you have completed the IGPF.

No	Question	Yes/No
1	Will the service or product include the sharing and/or processing of personal information? <i>i.e. data that relates to a living individual or can identify an individual (see the <a href="#">Data Protection Policy</a> for full definition).</i>	
2	Will the service or product include the sharing and/or processing of business sensitive information? <i>i.e. where unauthorised disclosure would cause harm to the interests or security of the Council.</i>	
3	Will the successful supplier/contractor/service provider create and/or manage Council records as part of delivering a Council function? <i>i.e. recorded information, digital or paper, create or received in the transaction of business and kept as evidence of such activity.</i>	

## 5.2 ICT security

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no ICT security implications.

If you answer yes to any of the questions, you must include the [IT, Cyber and Information Security Schedule](#) within your procurement exercise.

No	Question	Yes/No
1	Will the service or product being procured include any IT related services or data hosting solutions?	

	<p>A 'request for service' must be logged with the IT service desk at <a href="mailto:EHD-itservicedesk@north-ayrshire.gov.uk">EHD-itservicedesk@north-ayrshire.gov.uk</a> or (01294) 324290.</p> <p>Please give as much detail as possible to enable the request to be sent to the relevant person.</p>	
2	<p>Will the service or product being procured include a requirement for remote network access to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">remote network access for suppliers/vendors/3rd parties</a> in the STAR.</p>	
3	<p>Will the service or product being procured include a requirement for non-Council owned equipment to be connected to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">transfer of equipment control</a> in the STAR.</p>	

## SECTION 6 – DISCLOSURE CLEARANCE

### 6.1 Disclosure checks

Please provide a yes or no reply to each question.

Please indicate what level of disclosure check is required for this STAR. Please note, it is an offence to ask someone to apply to join the PVG Scheme or make a disclosure application in relation to work which is not regulated work under the PVG Act.

If you are unsure, please contact Disclosure Scotland on 0300 020 0040 or email [info@disclosurescotland.gov.scot](mailto:info@disclosurescotland.gov.scot) detailing the nature and scope of the contract, and they will advise if a disclosure check is appropriate and if so, what level.

Type	Description	Yes/No
<b>Basic disclosure</b>	Anyone can <a href="#">apply for a basic disclosure</a> certificate, which can be used for any purpose and is often used by employers for roles not exempt from the Rehabilitation of Offenders Act. It includes information on any 'unspent' convictions the person has.	

	Disclosure Scotland basic disclosure certificates is considered up to date upon completion of the relevant checks.	
<b>Standard &amp; enhanced disclosure</b>	<p>Standard and enhanced disclosures involve <a href="#">higher level checks</a>. They are for people doing certain prescribed types of work or looking to adopt and are applied for by the Council or a <a href="#">registered body</a> representing the organisation the individual is working for.</p> <p><a href="#">standard disclosure</a> is for specific prescribed roles such as solicitors, accountants or providing a care service.</p> <p><a href="#">enhanced disclosure</a> applies to specific prescribed roles or circumstances such as checking people are suitable for adoption or applying for certain gaming or lottery licences.</p>	
<b>Protecting Vulnerable Groups (PVG) Scheme</b>	<p>The <a href="#">PVG Scheme</a> is for people doing '<a href="#">regulated work</a>' with children and/or protected adults.</p> <p>A PVG certificate contains all unspent and certain spent <a href="#">conviction information</a>. It also contains any other non-conviction information that the police or other government bodies think is relevant.</p> <p>Disclosure Scotland continually monitor PVG scheme members' records for vetting information (or for any other reason) including criminal convictions that may affect their suitability to work with vulnerable groups.</p> <p>Disclosure Scotland only notify organisations if an individual comes under consideration for listing or listed. If new information does not affect their PVG membership status organisations are not notified.</p>	

## SECTION 7 – CONDITIONS OF CONTRACT/MODEL FORM CONTRACT

### 7.1 Conditions of contract

Please select which conditions of contract will apply to this contract.

The Council's standard conditions of contract can be found on [Connects](#).

If you wish to use alternative conditions of contracts, **these must be approved by Legal.**

Conditions of contract for the purchase of services

Conditions of contract for the purchase of goods

Conditions of contract for consultancy services (other than work consultancies)

Conditions of contract for the purchase of goods (and any related services)

### 7.2 Model form contract

Please provide the name of the model form contract you wish to use e.g. SBCC Minor Works Building Contract for use in Scotland 2016 Edition.

New Engineering Contract (NEC):

Scottish Building Contract Committee (SBCC):

### 7.3 Other conditions of contract

Please detail the conditions of contract you wish to use, if not using the Council's standard or the model forms listed above.

If you wish to use alternative conditions of contract, **these must be approved by Legal.**

Please confirm these have been approved by Legal.

Yes  No

Please detail the conditions you wish to use:

## SECTION 8 – TIMETABLE

### 8.1 Minimum timescales

Please see minimum timescales noted below.

These timescales may change depending on the complexity and value of the contract.

Stage	Timescale (under 50K Supplies and Services and 100K Works)	Timescale (over 50K Supplies and Services and 100K Works)
From receipt of RPA to issue	Up to 1 week	Up to 1 week
From issue to supplier response	Up to 1 week	Up to 2 weeks
From supplier response to award (including clarifications)	Up to 1 week	Up to 2 weeks
Total	Up to 3 weeks	Up to 5 weeks

## 8.2 Timetable

Please provide the start, end and maximum extension date below, when setting these dates you should consider the timescales noted in the previous section.

Stage	Date
Contract start	
Contract end	
Maximum extension date	

## SECTION 9 – CONFLICTS OF INTEREST

### 9.1 Conflict of interest

Please confirm if there is a conflict of interest below.

Any officer who has a potential conflict of interest or a direct or indirect pecuniary interest in any aspect of the STAR process is not permitted to be involved in the STAR process and must declare this interest as soon as it arises to the Senior Corporate Procurement Manager.

Examples of a conflict of interest include having a financial interest or having a relationship (spouse, partner, family member etc) with someone in the organisation.

Are there any conflicts of interest?

Yes  No

If yes, please confirm you have completed the [conflict of interest declaration](#) form and notified the Senior Corporate Procurement Manager.

Yes  No

## SECTION 10 – OFF PAYROLL WORKING

### 10.1 Off Payroll Working

Off payroll working may apply if the contract/framework place is awarded to a personal services company either directly or indirectly via a recruitment agency or to an individual who is self-employed. Please check if off payroll working is applicable by using the link below or further guidance is available [here](#).

[Check employment status for tax - GOV.UK \(www.gov.uk\)](#)

Please confirm that you have considered if off payroll working is applicable to this procurement:

Yes  No

Please confirm if off payroll working is applicable.

Yes  No

If yes, please provide details:

## SECTION 11 – BUDGET DETAILS

### 11.1 Budget details

Please complete the budget details in the section below.

To comply with internal audit requirements, only a wet signature or electronic signature will be accepted.

Budget allocated for this contract (excluding VAT) <i>(including any extension(s))</i>	£
Breakdown of value by financial year:	2020/21 £ 2021/22 £ 2022/23 £ 2023/24 £ 2024/25 £ 2024/26 £
Type of expenditure:	Capital <input type="checkbox"/> Revenue <input type="checkbox"/> Housing Revenue Account <input type="checkbox"/>
GL code:	
If the budget is from the change fund, please provide the name of the approved project:	

### 11.2 Budget holder approval

Please complete the budget holders' details below and obtain budget holder signature.

Name of budget holder (block capitals):

Signature of budget holder:
Date:
<p><b>11.3 Finance manager approval</b></p> <p>Please complete the finance managers' details below and obtain finance manager signature.</p>
Name of finance manager (block capitals):
Signature of finance manager:
Date:

**SECTION 12 – APPROVALS**

<p><b>12.1 Chief Officer approval (any value)</b></p> <p>Please complete the Chief Officers' details below and obtain Chief Officer signature.</p>
Name of Chief Officer (block capitals):

Signature of Chief Officer:
Date:
If the requirement is above 50K for Supplies and Services or 100K for Works, please confirm the Chief Officer has consulted with the Portfolio Holder, Chair of Cabinet and Chief Executive:
Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>12.2 Chief Executive or Designated Officer approval (over 500K Supplies, Services and Works)</b>
Please complete the Chief Executives' or Designated Officers' details below and obtain Chief Executives' or Designated Officers' signature.
Name of Chief Executive or Designated Officer (block capitals):
Signature of Chief Executive or Designated Officer:
Date:

SECTION 13 – CPU DECISION (CPU USE ONLY)

<b>13.1 Decision</b>
Approved with no conditions <input type="checkbox"/>
Approved subject to conditions <input type="checkbox"/>

Condition details:

Rejected

Reason for rejection:

Name of Corporate Procurement Manager:

Signature of Corporate Procurement Manager:

Date:

**13.2 Allocated to**

Name:

Date:

## Annex B – Disposal of Property/Land

Disposal of Property / Land
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### **PROCEDURES FOR INVITING AND OPENING OFFERS RELATING TO THE SALE/LEASE OF PROPERTY WHERE A CLOSING DATE HAS BEEN FIXED.**

#### **1. Introduction**

- 1.1 In all cases where offers for the sale or lease of Council property have been invited following appropriate authorisation from the relevant Committee or the Chief Executive in terms of the Scheme of Delegation to Officers, and a closing date has been fixed, the procedures set out below must be followed.
- 1.2 Prior to carrying out the sale or lease of the property, the Executive Director of Place or Designated Officer shall obtain from the relevant Planning Officers, a report on the planning history of the property, including a development brief document, where appropriate, which information where relevant, will be incorporated into any marketing material which shall be used as part of the evaluation process of offers.
- 1.3 No proposal for the development of or investment in land, property or building fabric shall be made to the Council or Cabinet without prior approval of the Executive Director of Place or an officer designated by them.

#### **2. Invitation to Submit Offers**

- 2.1 When inviting offers it is important that uniform instructions are given, and the following information must therefore be included in all instructions:
  - 2.1.1 Interested parties shall be notified by the Executive Director of Place or Designated Officer that a closing date, including the date and time for submission has been fixed.
  - 2.1.2 Interested parties must be informed that it is their responsibility to have the offer, in Scottish legal form emailed to the specified email address, on the instructions by 12 noon on the designated day. Under no circumstances will

a late offer be considered, and any offer arriving after the specified time will not be accepted. The principal offer should also be sent to the Council but this will not need to be received by the deadline for email submission. No contract will be concluded until the principal offer is received.

### 3. Offer Return and Notification Record

- 3.1 The Executive Director of Place or Designated Officer must prepare an offer return form for every sale or lease.

### 4. Procedure for Considering Offers

- 4.1 The Senior Manager, Legal Services or Designated Officer will collate offers receive in the email inbox by the deadline for submission. Any offers arriving after the specified time will be highlighted as late offer.
- 4.2 The Senior Manager, Legal Services or Designated Officer will, as soon as possible after the closing of offers, collate the offers received, complete the offer return form and circulate all offers received to the Head of Service (Finance) or their nominee who along with the Senior Manager, Legal Services or their nominee shall verify the validity of the offers.

### 5. Acceptance of Offers

- 5.1 Offers received and verified as provided for above, shall be evaluated jointly by representatives of the Executive Director (Place) and the Head of Democratic Services prior to any further action being taken. In the event that it determined to proceed to accept an offer received, it will then be accepted in the following manner:
- 5.1.1 Where the value of the offer to purchase or the annual rental does not exceed £300,000 or £120,000 respectively, acceptance of the offer may be authorised by the Executive Director (Place) in terms of the Scheme of Delegation to Officers.
- 5.1.2 Where the value of the offer to purchase or lease exceeds the respective limits set in 5.1.1 above, a report shall be submitted to the Cabinet for authorisation to accept the offer.
- 5.2 All formal legal documentation in respect of offers relating to the sale or lease of property shall be undertaken by the Head of Democratic Services or his nominee.
- 5.3 Unsuccessful parties will be notified that their offer has not been successful.

## **Annex C – Health & Social Care Services**

### **Health and Social Care Services**

#### **Procedures for Commissioning of Health and Social Care Services**

##### **1. Introduction**

**1.1** In accordance with Standing Order 4, the Contract Standing Orders shall apply to the procurement of contracts for Health and Social Care Services subject to the special procedures set out in this Annex.

**1.2** These procedures are intended to accord with and reflect the principles set down in the Statutory Guidance issued by Scottish Ministers in terms of the Procurement Reform (Scotland) Act 2014 as well as the Best Practice Guidance on the Procurement of Care and Support Services 2016 issued in terms of the Procurement Reform (Scotland) Act.

**1.3** All Health and Social Care Services procurement will be undertaken by the Corporate Procurement Unit.

**1.4** The Director of Health and Social Care Partnership or designated Officer must satisfy themselves that all procurement has been undertaken and authorised by the Corporate Procurement Unit in terms of these standing orders.

##### **2. Governing Bodies (Care Inspectorate)**

**2.1** Any tenderers wishing to provide Health and Social Care Services to the Council must be registered with Care Inspectorate (or its statutory successor(s)) or any other relevant regulatory bodies that are a mandatory requirement to the service provision, where required in terms of the contract.

##### **3. Procedures for Procuring Contracts for Health and Social Care Services**

**3.1** In accordance with Standing Order 13, a contract for Health and Social Care Services that has an estimated value in excess of the GPA Threshold for Social and Other Specific Services must be procured by following a procedure that satisfies the Council's duties set out in the 2015 Regulations. If the Light Touch Regime is to be used, this must be set out in the contract notice.

**3.2** In cases of procuring a contract for Health and Social Care Services that has an estimated value below the GPA Threshold for Social and Other Specific Services, the Director - Health and Social Care Partnership in conjunction with the Senior Manager (Corporate Procurement) shall be responsible for deciding whether the particular contract is one which may be awarded without advertisement and competition, in accordance with section 12 of the Reform Act.

**3.3** In determining whether a contract for Health and Social Care Services may be awarded without advertisement and competition in terms of paragraph 3.2, the Director - Health and Social Care Partnership shall take account of the individual circumstances of the contract, including the subject matter and estimated value of the contract, the specifics of the service sector concerned and the geographic location of the place of performance of the contract to firstly identify whether there is likely to be a cross-border interest in the contract. The Director - Health and Social Care Partnership, following consultation with the Senior Manager (Corporate Procurement), may determine that there is no cross-border interest in the contract where:

- The service is of such a specialised nature that no cross-border market of suitable service providers exists
- Advertising the contract would result in the loss of a linked service
- The service is one that in accordance with the SDS 2013 Act the individual service user has a choice in selecting the provider

**3.4** Where the Director - Health and Social Care Partnership decides under paragraphs 3.2 and 3.3 above that a contract is likely to attract a cross-border interest, it should be procured by way of a competitive process and it will be advertised in accordance with Standing Order 14 unless the Director - Health and Social Care Partnership with the agreement of the Senior Manager (Corporate Procurement) decides that there are special circumstances justifying a departure from that requirement. Such decisions will be taken on a case-by-case basis and advertising may not be required where, for example:

- The needs of the service user(s) concerned would be best met by a particular service provider

- The existing service provider(s) are the only service provider(s) capable of delivering the service to meet the needs of the individual(s) concerned
- The nature of the service is such that it should not or cannot be adequately specified in advance because of the nature of the social care needs of the service user(s) concerned
- There are special circumstances such as ownership of land or property, geographic locations or particular skills or experience of service providers of social care which limit the choice to one service provider
- There are reasons of extreme urgency, brought about by unforeseen events which are not attributable to the Council.

**3.5** Where the Director - Health and Social Care Partnership decides under paragraphs 3.2 and 3.3 above that EU Treaty Principles do not apply to a contract for Health and Social Care Services, he/ she may also decide with the agreement of the Senior Manager (Corporate Procurement) that Standing Order 14 shall not apply to that contract.

**3.6** The Director - Health and Social Care shall be required to maintain a list of all proposed contracts which he/ she decides do not require to be advertised on the basis of the determinations made under paragraphs 3.2, 3.3, 3.4 or 3.5 above. He/ she shall provide a copy of that list to the elected members on an annual basis. Any decisions taken under paragraphs 3.2, 3.3, 3.4 or 3.5, that neither advertising nor competition will be required for a particular contract shall be subject to review by the Director - Health and Social Care Partnership at regular intervals (and at least annually).

**3.7** The decisions (and subsequent review of those decisions) taken by the Director - Health and Social Care Partnership under this Annex will all be fully documented. Any reasons for deciding that a proposed contract will not be advertised must be recorded and included on the list which is to go to the elected members under paragraph 3.6.

**3.8** In addition to demonstrating how Best Value will have been achieved, the contracting service will be responsible for evidencing the reasons referred to under paragraph 3.6.

## Annex D – Request for Procurement Action



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

### REQUEST FOR PROCUREMENT ACTION (“RPA”)

Please complete the relevant sections and return the form by email to:  
[procurement@north-ayrshire.gov.uk](mailto:procurement@north-ayrshire.gov.uk)

#### SECTION 1 – SERVICE DETAILS

<b>Service details</b> Please provide the service details below.
Service:
Service officer name:
Telephone number:
Date of request:

#### SECTION 2 – INTRODUCTION

<b>2.1 Working title</b> Please provide a short specific title e.g. Supply and Delivery of Office Furniture to St Matthew’s Academy.
<b>2.2 Type of procurement</b> Please select the appropriate type of procurement exercise.

**Tender**

For contracts above £50,000 for supplies and services and £500,000 for works.

**Quick Quote**

For contracts between £10,000 and £49,999 for supplies and services and £10,000 and £499,999 for works.

**Mini Competition**

For contracts against an establishment framework. Please state the name of the framework you wish to use:

**2.3 Recurring**

Please select if this is a one-off contract or a recurring contract.

One-off contract

Recurring contract

**2.4 Introduction**

Please enter an overview of what is required, the volume required, when it is required and where it will be delivered etc.

**2.5 Background**

Please provide enough information to ensure the bidder understands why this contract is required i.e. changes to legislation, budget has become available, statutory duty etc.

**SECTION 3 – OBJECTIVES**

**3.1 Scope**

Please provide full details of the requirement including what is required, the volume required, when it is required and where it will be delivered **or refer to specification/bill of quantities/work schedule/activity schedule or advise to follow.**

### 3.2 Outputs & milestones

Please provide an outline project plan, detailing the timescales for the contract including (where applicable):

- Scheduled meetings, including the venue for meetings
- What presentations and reports are required
- Detail the format of draft and final reports and state the number of reports
- Outline final deliverables expected within this contract
- Delivery locations and deadlines
- You may wish to specify anticipated outcomes of what you expect to be able to do as a result of this contract
- **Or refer to specification/bill of quantities/work schedule/activity schedule or advise to follow.**

### 3.3 Additional documents

Please advise if there are any additional documents e.g. drawings, photographs, specifications, bills, schedules etc.

Please advise if there are additional documents?

Yes  No

If yes, please list the documents below, and provide a copy.

### 3.4 Minimum requirements

Please provide details of any minimum requirements bidders must hold to deliver the contract.

This may include professional body memberships and any other minimum requirements for example:

- ISO 18001 or 45001 health and safety management system
- ISO 9001 quality management system

- ISO 14001 environmental management system
- Qualifications, membership of professional or trade bodies

## SECTION 4 – INSURANCE

It is the services responsibility to ensure that the insurances required reflects the risk in the contract, and should consider:

- level of risk in the contract
- worst-case scenario and the likelihood of this occurring given the contract controls
- setting levels too high may stifle competition and prevent small and medium sized enterprises bidding
- high value/high risk contracts, the standard levels may not be sufficient and specialist input from the Council's broker advisory service might be required

If you are unsure, please email insurance at [insurance@north-ayrshire.gov.uk](mailto:insurance@north-ayrshire.gov.uk)

### Mini competitions only

Do you wish to use the original framework insurance levels?

Yes  No

If no, please detail the levels of insurance required below.

<b>Insurance type</b> Please complete the level of insurance required for the types of insurances relevant to this contract. If certain insurance types are not required, please leave blank.	<b>Level required</b>
<b>Public liability insurance</b> which covers injury, death or damage to property to a member of the public.	£1million <input type="checkbox"/> £5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Products liability insurance</b> which covers injury, death or damage to property to a member of the public as a result of defective products.	£1million <input type="checkbox"/> £2million <input type="checkbox"/>

	£5million <input type="checkbox"/>
<b>Employer's liability insurance</b> which covers injury or death of an employer's employee. The statutory minimum determined by law is 5 million.	£5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Professional indemnity insurance</b> which covers inadequate advice, professional services or designs that cause loss to the Council.  Professional indemnity may require to be held for a 'run-off' period. The Council's standard period is 6 years following completion of the contract or earlier termination, or up to 12 years for complex construction contracts.	£1million <input type="checkbox"/> £2million <input type="checkbox"/> £5million <input type="checkbox"/> Period -
<b>Third-party motor vehicle insurance</b> which covers damage to property or injury to a member of the public. If a vehicle is likely to be used during the delivery of a contract it is reasonable to request this.	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Contractors' all risks insurance ("CAR")</b> which is a non-standard insurance policy that provides coverage for property damage and third-party injury or damage claims, the two primary types of risks on construction contracts. CAR insurance not only covers those associated risks, but also bridges these two types of risks into a common policy designed to cover the gap between exclusions that would otherwise exist if using separate policies.	£
<b>Medical professional liability insurance</b> (also referred to as medical malpractice insurance) which covers healthcare professionals for carrying out wrongful practices which result in bodily injury, medical expenses, mental anguish or property damage.  Medical professional liability insurance may require to be held for a 'run-off' period. This is to ensure continuous cover is in place for any claims which may arise. The insurance should be held at the required level for a stipulated period (determined by the contract requirements) following completion of the whole of the services or earlier termination.	£  Period -
<b>Cyber liability insurance</b> which covers loss or damage to information within IT systems and networks, including cover from hackers causing damage or disruption to cyber information.	£

Cyber liability insurance may be required within contracts which require suppliers/contractors/service providers to host the Council’s sensitive data or systems.	
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**SECTION 5 – INFORMATION GOVERNANCE & ICT SECURITY**

**5.1 Information governance**

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no information governance implications.

If you answer yes to any of the questions, there are information governance implications and you must complete the information governance procurement framework (“IGPF”) to ensure you have identified all relevant requirements to include in the procurement exercise.

Please proceed to [Connects](#) to complete the IGPF checklist and the remaining IGPF steps.

You must not proceed with the procurement until you have completed the IGPF.

No	Question	Yes/No
1	Will the service or product include the sharing and/or processing of personal information?  <i>i.e. data that relates to a living individual or can identify an individual (see the <a href="#">Data Protection Policy</a> for full definition).</i>	
2	Will the service or product include the sharing and/or processing of business sensitive information?  <i>i.e. where unauthorised disclosure would cause harm to the interests or security of the Council.</i>	
3	Will the successful supplier/contractor/service provider create and/or manage Council records as part of delivering a Council function?  <i>i.e. recorded information, digital or paper, create or received in the transaction of business and kept as evidence of such activity.</i>	

## 5.2 ICT security

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no ICT security implications.

If you answer yes to any of the questions, you must include the [IT, cyber and information security schedule](#) within your procurement exercise.

No	Question	Yes/No
1	<p>Will the service or product being procured include any IT related services or data hosting solutions?</p> <p>A 'request for service' must be logged with the IT service desk at <a href="mailto:EHD-itservicedesk@north-ayrshire.gov.uk">EHD-itservicedesk@north-ayrshire.gov.uk</a> or (01294) 324290.</p> <p>Please give as much detail as possible to enable the request to be sent to the relevant person.</p>	
2	<p>Will the service or product being procured include a requirement for remote network access to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">remote network access for suppliers/vendors/3rd parties</a> in the procurement exercise.</p>	
3	<p>Will the service or product being procured include a requirement for non-Council owned equipment to be connected to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">transfer of equipment control</a> in the procurement exercise.</p>	

## SECTION 6 – DISCLOSURE CLEARANCE

### 6.1 Disclosure checks

Please provide a yes or no reply to each question.

Please indicate what level of disclosure check is required for this procurement exercise. Please note, it is an offence to ask someone to apply to join the PVG Scheme or make a disclosure application in relation to work which is not regulated work under the PVG Act.

If you are unsure, please contact Disclosure Scotland on 0300 020 0040 or email [info@disclosurescotland.gov.scot](mailto:info@disclosurescotland.gov.scot) detailing the nature and scope of the contract, and they will advise if a disclosure check is appropriate and if so, what level.

Type	Description	Yes/No
<b>Basic disclosure</b>	<p>Anyone can <a href="#">apply for a basic disclosure</a> certificate, which can be used for any purpose and is often used by employers for roles not exempt from the Rehabilitation of Offenders Act. It includes information on any 'unspent' convictions the person has.</p> <p>Disclosure Scotland basic disclosure certificates is considered up to date upon completion of the relevant checks.</p>	
<b>Standard &amp; enhanced disclosure</b>	<p>Standard and enhanced disclosures involve <a href="#">higher level checks</a>. They are for people doing certain prescribed types of work or looking to adopt and are applied for by the Council or a <a href="#">registered body</a> representing the organisation the individual is working for.</p> <p><a href="#">standard disclosure</a> is for specific prescribed roles such as solicitors, accountants or providing a care service.</p> <p><a href="#">enhanced disclosure</a> applies to specific prescribed roles or circumstances such as checking people are suitable for adoption or applying for certain gaming or lottery licences.</p>	
<b>Protecting Vulnerable Groups (PVG) Scheme</b>	<p>The <a href="#">PVG Scheme</a> is for people doing '<a href="#">regulated work</a>' with children and/or protected adults.</p> <p>A PVG certificate contains all unspent and certain spent <a href="#">conviction information</a>. It also contains any other non-conviction information that the police or other government bodies think is relevant.</p> <p>Disclosure Scotland continually monitor PVG scheme members' records for vetting information (or for any other reason) including criminal convictions that may affect their suitability to work with vulnerable groups.</p>	

	<p>Disclosure Scotland only notify organisations if an individual comes under consideration for listing or listed. If new information does not affect their PVG membership status organisations are not notified.</p>	
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## SECTION 7 – EVALUATION

<p><b>7.1 Evaluation of quotes</b></p> <p>Please specify the weightings required below.</p> <p>The Council’s default for cost/quality is a minimum of 60% cost and 40% quality however, this may not always be suitable depending on the nature of your contract.</p> <p>If you wish to increase the quality above 40%, this must be approved by the Senior Corporate Procurement Manager.</p>
<p><b>Weightings</b></p>
<p><b>Mini competitions only</b></p> <p>Do you wish to carry forward the original framework quality scores, if the framework permits?</p> <p>Please contact the Corporate Procurement Unit (“CPU”) to confirm.</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If no, please detail your requirement below.</p>
<p><b>Tenders and quick quotes (and mini competitions if applicable)</b></p> <p>Cost 60%/quality 40% <input type="checkbox"/></p> <p>Cost 70%/quality 30% <input type="checkbox"/></p> <p>Cost 80%/quality 20% <input type="checkbox"/></p> <p>Cost 90%/quality 10% <input type="checkbox"/></p> <p>Cost 100% <input type="checkbox"/></p>
<p>If you wish to increase the quality ratio above 40%, please provide justification below:</p>

## 7.2 Quality evaluation

Please detail the quality criteria questions and how you wish these to be weighted in line with the ratio stated above.

**This is not required for 100% quick quotes or for mini competitions where framework scores are carried forward.**

The following are examples which you may wish to include. However, services are encouraged to select their own quality criteria relative to the nature of the contract and include any fundamental areas which are required to be scored.

- Please provide a detailed methodology for delivering the service and proposed approach (X%)
- Please detail the specific expertise proposed for the service e.g. staffing arrangements and relevant experience offered including CV's of staff involved in the delivery of the contract (X%)
- Please provide a detailed project plan including key milestones and delivery dates for each stage (X%)
- Please provide detailed reports for the past year demonstrating (e.g. response times, first time fix, uptime etc) (X%)

## SECTION 8 – PRICING

### 8.1 Pricing

Please select which pricing option will be used for this contract or complete the template included at section 8.2 below.

Pricing Schedule

Bill of Quantities

Work Schedule

Activity Schedule

### 8.2 Template cost table

Please complete the template below if you don't have one of the above.

Heading	Quantity	Comments
E.g. materials, labour, delivery, product type	E.g. 145	E.g. estimated quantity based on last 3 years

## SECTION 9 – CONDITIONS OF CONTRACT/MODEL FORM CONTRACT

<p><b>9.1 Conditions of contract</b></p> <p>Please select which conditions of contract will apply to this contract.</p> <p>The Council's standard conditions of contract can be found on <a href="#">Connects</a>.</p> <p>If you wish to use alternative conditions of contracts, <b>these must be approved by Legal.</b></p>
<p><b>Mini competitions only</b></p> <p>The terms and conditions of the framework will be used.</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>Tenders and quick quotes</b></p> <p>Conditions of contract for the purchase of services <input type="checkbox"/></p> <p>Conditions of contract for the purchase of goods <input type="checkbox"/></p> <p>Conditions of contract for consultancy services (other than work consultancies) <input type="checkbox"/></p> <p>Conditions of contract for the purchase of goods (and any related services) <input type="checkbox"/></p>
<p><b>9.2 Model form contract</b></p>

Please provide the name of the model form contract you wish to use e.g. SBCC Minor Works Building Contract for use in Scotland 2016 Edition.

New Engineering Contract (NEC) –

Scottish Building Contract Committee (SBCC) –

### 9.3 Other conditions of contract

Please detail the conditions of contract you wish to use, if not using the Council's standard or a recognised model form contract.

If you wish to use alternative conditions of contracts, **these must be approved by Legal.**

Please confirm these have been approved by Legal.

Yes  No

Please detail the conditions you wish to use:

## SECTION 10 – TIMETABLE

### 10.1 Minimum timescales

Please see minimum timescales noted below.

These timescales may change depending on the complexity and value of the contract.

Stage	Quick quote	Mini competition (low value)	Mini competition (high value)	Tender
Receipt of RPA to publish	7 working days	1 week	4-8 weeks	4-8 weeks
Published on PCS-T	2 weeks	2 weeks	4-8 weeks	4-8 weeks
Evaluation to contract award	2 weeks	2 weeks	4-6 weeks	4-6 weeks

Total	5 weeks	5 weeks	12-22 weeks	12-22 weeks
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**10.2 Timetable**  
Please provide the key dates for the main stages of the process and contract.

Stage	Date
Project issue date	
Deadline for questions via PCS-T	
Deadline for responses via PCS-T	
Contract award	
Contract start	
Contract end	
Maximum extension date	

**10.3 Questions and answers**  
Please provide the contact name(s) of the person(s) who will answer questions relating to this procurement exercise.  
The question and answer contact **must** be available from the issue date to the response deadline date.

**SECTION 11 – CONFLICTS OF INTEREST**

**11.1 Conflict of interest**  
Please confirm if there is a conflict of interest below.  
Any officer who has a potential conflict of interest or a direct or indirect pecuniary interest in any aspect of the procurement process is not permitted to be involved in the procurement process and must declare this interest as soon as it arises to the Senior Corporate Procurement Manager.

Examples of a conflict of interest include members of the evaluation panel having a financial interest or having a relationship (spouse, partner, family member etc) with someone in the bidder's organisation.

Are there any conflicts of interest?

Yes  No

If yes, please confirm you have completed the [conflict of interest declaration](#) form and notified the Senior Corporate Procurement Manager.

Yes  No

## SECTION 12 – INVITED SUPPLIERS (QUICK QUOTE ONLY)

### 12.1 Invited suppliers for quick quotes only

Please list a minimum of 4 suppliers/contractors/service providers you wish to invite to submit a bid.

CPU encourage the selection of local suppliers/contractors/service providers (North Ayrshire), so please include as many local suppliers/contractors/service providers as possible.

CPU will share all contract details for quick quotes with Business Growth, who reserve the right to include additional companies to increase competition and support the Council's ambitions of Community Wealth Building.

Company Name	Contact Name	Address	Email Address	Telephone Number

## SECTION 13 – BUDGET DETAILS

### 13.1 Budget details

Please complete the budget details in the section below.

To comply with internal audit requirements, only a wet signature or electronic signature will be accepted.

Budget allocated for this contract (excluding VAT) <i>(including any extension(s))</i>	£
Breakdown of value by financial year:	2020/21 £ 2021/22 £ 2022/23 £ 2023/24 £ 2024/25 £ 2024/26 £
Type of expenditure:	Capital <input type="checkbox"/> Revenue <input type="checkbox"/> Housing Revenue Account <input type="checkbox"/>
GL code:	
If the budget is from the change fund, please provide the name of the approved project:	

### 13.2 Budget holder approval

Please complete the budget holders' details below and obtain budget holder signature.

Name of budget holder (block capitals):

Signature of budget holder:
Date:
<b>13.3 Finance manager approval</b>
Please complete the finance managers' details below and obtain finance manager signature.
Name of finance manager (block capitals):
Signature of finance manager:
Date:

**SECTION 14 – CPU (USE ONLY)**

<b>14.1 Approved by</b>
Name of Team Manager (Corporate Procurement):
Signature of Team Manager (Corporate Procurement):
Date:
<b>14.2 Allocated to</b>
Name:
Date:



## ANNEX E – Conflict of Interest Declaration



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

### CORPORATE PROCUREMENT UNIT (CPU)

### CONFLICT OF INTEREST DECLARATION

#### Section 1 – Individuals Details

**Service:**

**Name (Block Capitals):**

**Telephone Number:**

**Date of Declaration:**

#### Section 2- Conflict of Interest Details

**Description of the conflict of interest: E.g. In a relationship with one of the supplier's members of staff (married, personal relationship, close friend, family member etc.), have a financial interest in the supplier's organisation etc.**

**Section 3- Procurement Activity Details**

***Procurement Title:***

***Procurement Reference No:***

***Procurement activity undertaking: E.g. Developing specification, market engagement, evaluating bids etc.***

**Section 4- Line Manager Notification**

***Name of Officer (Block Capitals):***

***Details of possible risk mitigation:***

***\*Signature:***

***Date:***

**Section 5- Approvals**

**Senior Manager (Corporate Procurement)**

**Name of Officer (Block Capitals):**

**Accepted**

Yes  No

**Rejected**

Yes  No

**Provide details:**

**\*Signature:**

**Date:**

**\* Internal Audit requirement – original signature required, type signed is not acceptable**

**On completion the Conflict of interest declaration should be sent to CPU at:**  
[Procurement@north-ayrshire.gov.uk](mailto:Procurement@north-ayrshire.gov.uk)



## FINANCIAL REGULATIONS – MAY 2022

### 1 Scope and Observance

- 1.1** Section 95 of the Local Government (Scotland) Act 1973 states that:  
“...every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that the proper officer of the authority has responsibility for the administration of those affairs.”
- 1.2** These Financial Regulations fulfil this requirement by providing a mandatory framework for the financial administration of North Ayrshire Council and will apply to every financial transaction and to every employee throughout the Council.
- 1.3** It is the duty of Heads of Service to ensure that all relevant employees are familiar with these Regulations and other relevant documents detailed at Section 10 below and that they are adhered to.
- 1.4** Failure to observe these Financial Regulations may be regarded as a breach of trust and may lead to disciplinary action.

### 2 Principals of Financial Administration

- 2.1** The financial affairs of the Council will at all times be conducted in accordance with the seven principles of public life as set out by the Nolan Committee on Standards in Public Life:

**Selflessness**: Employees will not take decisions which will result in any financial or other benefit to themselves, their family or friends. Decisions will be based solely on the Council's best interests.

**Integrity**: Employees will not place themselves under any financial or other obligation to an individual which might influence them in their work with the Council.

**Objectivity**: Any decisions which employees make in the course of their work with the Council will be based solely on merit.

**Accountability**: Employees are accountable to the Council as their employer and, in turn, to the public.

**Openness**: Employees will be as open as possible in all the decisions and actions that they take.

**Honesty**: Employees have a duty to declare any private interests which might affect their work with the Council.

**Leadership**: Management will promote and support the above principles by leadership and example.

- 2.2** In order to comply with these principles of public life, no employee must be in a position where they experience a conflict of interest between their personal life and their employment with North Ayrshire Council.

Examples of conflicts of interest will include:

**Procurement:** purchasing goods or services from a supplier with whom the employee is either directly involved or with whom the employee has a family relationship or close friendship. Further guidance is contained within the Standing Orders Relating to Procurement.

**Systems:** an employee must not access or update records which relate either to themselves or family or close friends.

**Service Delivery:** an employee must not make decisions on service provision which could result in a favourable outcome for themselves or family or close friends.

Where an employee perceives a possible conflict of interest in relation to these or any other transactions of the Council, this must be declared to their line manager and steps put in place to prevent this materialising. Failure to do so may lead to disciplinary action.

**2.3** No financial transactions will take place unless they fall within the legal powers of the Council. In cases of doubt, Heads of Service must consult with the Head of Democratic Services to obtain clarification as to legality before any liability or expenditure is incurred. Expenditure on new service developments, initial contributions to other organisations and responses to new emergency situations which require expenditure must be clarified as to legality prior to being incurred.

**2.4** The Local Government in Scotland Act 2003 places the duty on local authorities to make arrangements that secure 'Best Value'. 'Best Value' is defined in the Act as 'continuous improvement in the performance of the authority's functions'.

### 3 Role of the Council

**3.1** The full Council is responsible for setting the Council's annual budgets, housing rent and Council Tax levels. The Council is also responsible for approving the Annual Treasury Management and Investment Strategy.

### 4 Role of the Cabinet

**4.1** The Cabinet is responsible for monitoring the use of the Council's resources throughout the financial year.

### 5 Role of Audit and Scrutiny Committee

**5.1** The Audit and Scrutiny Committee will monitor the effectiveness of controls maintained by Heads of Service within their Service.

### 6 Role of Head of Finance

**6.1** The Head of Finance is the proper officer of the Council under Section 95 of the Local Government (Scotland) Act 1973 for the administration of the financial affairs of the Council.

- 6.2 All accounting procedures and records of the Council will be determined by the Head of Finance and all accounts and accounting records of the Council will be compiled by or under the direction of the Head of Finance.
- 6.3 The Head of Finance will act as financial adviser to the Council, the Cabinet and all its Committees and will monitor and report on the financial performance and position of the Council.
- 6.4 The Head of Finance will be entitled to:
- access to any information and to be given such explanations as are considered necessary;
  - issue, and require compliance with, any instructions on any aspect of financial administration;
  - examine administration and control systems within any Service of the Council and secure any improvements which are considered necessary.

## 7 Responsibilities of Chief Executive, Executive Directors and Heads of Service

- 7.1 The Chief Executive, Executive Directors and Heads of Service are accountable for the financial performance of their Services within the budgets allocated.
- 7.2 They will ensure at all times that they and their employees endeavour to secure the best value for expenditure incurred by them when pursuing the objective of achieving the policies of the Council.
- 7.3 The Chief Executive, Executive Directors and Heads of Service are responsible for the maintenance of effective controls within the financial procedures operated by their Services.

## 8 Accounting and Internal Control

### Internal Control

- 8.1 The following principles will be observed in the allocation of duties:
- There must be an effective **separation of duties** so that the different stages of financial transactions are progressed by different people;
  - Financial transactions will be subject to **internal check** to reduce the likelihood of fraud and errors.
- 8.2 Procedures for calculating, checking and recording sums due to or by the Council should be arranged in such a way whereby the work of one person is proven independently or is complementary to the work of another and these operations will be separated from the duty of collecting or disbursing such sums.
- 8.3 There will be regular **management review** by service managers of financial transactions, other than budget monitoring, to ensure the accuracy and completeness of financial records.

## Authorisation

- 8.4** Authorisation of financial transactions indicates acceptance of responsibility for them.
- 8.5** Heads of Service are responsible for determining the numbers and distribution of authorising officers to meet the needs of their Service.
- 8.6** An officer must not authorise a transaction in which they have a personal interest.
- 8.7** A register of all authorised signatories will be maintained by the appropriate section and kept up-to-date. Entries on this register will be authorised by Heads of Service and will detail the following:
- Names, designations and locations of authorised signatories;
  - The financial authorisation limits placed upon individual officers;
  - Sample signatures of authorising officers.

## Monthly Financial Performance

- 8.8** Each Head of Service or nominated senior manager will monitor expenditure and income against approved budgets and provide information to Finance to support projections and on actions being taken to address potential overspends or income shortfalls.

## Annual Statement of Accounts

- 8.9** Each Head of Service will, at dates to be specified by the Head of Finance, submit to the Head of Finance such information as is required in order that the Council's annual accounts can be closed.

## **9 Internal Audit**

- 9.1** Internal Audit will carry out independent reviews of financial and other systems of the Council to ensure that the interests of the Council are protected.
- 9.2** The objective of Internal Audit is to assist Elected Members and Council officers in the effective discharge of their responsibilities by reviewing and evaluating:
- the completeness, reliability and integrity of financial and other management information;
  - the systems established to ensure compliance with corporate and departmental policies and procedures and legislative requirements;
  - the means of safeguarding assets;
  - the economy, efficiency and effectiveness with which resources are employed;
  - the extent to which operations are being carried out as planned and objectives are being met.
- 9.3** The Senior Manager (Audit, Fraud, Safety and Insurance) reports to the Head of Finance. In addition, the Senior Manager has the right of direct access to the Chief Executive and the Chair of the Audit and Scrutiny Committee on any audit matter.

- 9.4** In relation to Internal Audit work being carried out, the Senior Manager (Audit, Fraud, Safety and Insurance) and any member of the Internal Audit section has the authority to:
- Enter at all reasonable times and without notice any premises or land of the Council, provided that where such premises or land are leased to a third party the terms of the lease are observed;
  - Have access to, and remove, all records (both paper and electronic), documents and correspondence within the possession or control of any officer of the Council, relating to any transactions of the Council;
  - Be provided with a separate log-in to any computer system within the Council and have full access to any system, network, personal computer or other device in the ownership of the Council;
  - Require and receive explanations concerning any matter under examination from any employee, including Chief Officers, and request such explanations from any Elected Member;
  - Require any employee of the Council to produce cash, stores or any other Council assets under their control.

## **10** Associated Procedures and Codes of Practice

The following is a list of other documents which should be read in conjunction with these financial regulations:

### **10.1** Codes of Financial Practice

Although not contained within the body of these financial regulations, Codes of Financial Practice will be issued under their authority and will have the same status as if they were included therein.

The Codes of Financial Practice are maintained by the Head of Finance.

### **10.2** Corporate Procurement Strategy

This document sets out the recommended activities and procedures required when purchasing all externally provided goods, services and works.

The strategy is maintained by the Head of Finance.

### **10.3** Standing Orders Relating to Contracts

The Standing Orders Relating to Contracts set out how the Council will invite tenders and let contracts for the supply of goods, services and works.

This document is maintained by the Head of Democratic Services.

### **10.4** Scheme of Delegation to Officers

The Scheme of Delegation to Officers contains details of those functions both statutory and non-statutory which the Council has chosen to delegate to officers.

The Scheme of Delegation is maintained by the Head of Democratic Services.

## **10.5** Risk Management Strategy

The Risk Management Strategy sets out the Council's approach to dealing with risk and explains how risk management should be integrated throughout the Council. The document also defines the roles and responsibilities of Elected Members and officers in dealing with risk.

The Strategy is maintained by the Head of Finance.

## **10.6** Code of Corporate Governance

The Council's local Code of Corporate Governance demonstrates how the Council complies with the seven core principles of good corporate governance which are outlined in the CIPFA/SOLACE framework 'Delivering Good Governance in Local Government'.

The local Code of Corporate Governance is maintained by the Head of Democratic Services.

## **10.7** Annual Treasury Management and Investment Strategy

The Annual Treasury Management and Investment Strategy sets out the Council's strategy for borrowing and managing investments.

The strategy is maintained by the Head of Finance.

## **11** Irregularities

**11.1** Any evidence or reasonable suspicion of an irregularity relating to any property of the Council must be reported immediately in accordance with the Council's Defalcation Procedures or "Whistleblowing" Procedure, whichever is appropriate.

**11.2** All reported irregularities will be investigated in accordance with the appropriate procedure and the Council's Counter Fraud and Corruption Strategy.

**11.3** Any contact with Police Scotland or the Procurator Fiscal will be made only by the Chief Executive or by another officer acting with the prior approval of the Chief Executive.

## **12** Review of Financial Regulations

**12.1** These Regulations may be varied or revoked subject to a report by the Head of Finance on any variations and revocations being approved by the Council.

**Mark Boyd**  
**Head of Finance**  
**May 2022**

# CODES OF FINANCIAL PRACTICE 2022

<b>Version:</b>	Final
<b>Date:</b>	27/04/2022
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<b>Classification:</b>	Public



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

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Codes of Financial Practice are issued under the authority of the Council's Financial Regulations. They shall be read in conjunction with, and have the same status as, the Financial Regulations.

It shall be the duty of each Head of Service to ensure that the requirements of the Codes of Financial Practice are made known to the appropriate staff within their Service and that they are adhered to.

Failure to comply with Codes of Financial Practice may be regarded as a breach of trust and may lead to disciplinary action.

## **Code of Financial Practice 1 Capital Finance**

### Financial Plans and Capital Estimates

Finance will prepare a financial plan for capital expenditure which covers more than one financial year.

The annual Capital Estimates will correspond to the first year of the financial plan, subject to funds being available, and will detail the committed capital projects and new capital projects on which the Council intends to incur expenditure.

The detailed form of the financial plan and Capital Estimates will be determined by the Head of Finance

All Executive Directors will provide such information as may be required by the Head of Finance for the purpose of preparing the financial plan and Capital Estimates.

The financial plan and Capital Estimates, along with reports by the appropriate officers, will be considered by the Council for approval.

Prior to submission to the Council, all new projects or requests for a change in expenditure profile must be forwarded to the Capital Programme and Assets Group (CPAG) for consideration. CPAG will ensure that accurate costings are agreed and that appropriate option appraisals have been carried out.

For any new projects a business case should be completed detailing the need for Investment or change in service delivery and the options that have been considered. This should be forwarded to the Capital Programme and Assets Group (CPAG) for consideration. CPAG will ensure that accurate costings are agreed and that appropriate option appraisals have been carried out.

Any requests for a change in expenditure profile should be included in the capital financial report to be considered by CPAG.

The approval of the financial plan by the Council will permit Heads of Service to:

- incur preliminary expenses and design costs in respect of projects included in the approved Financial Plan, and;
- in conjunction with the Head of Democratic Services, take the necessary steps to acquire land associated with specified projects included in years one to five of the Plan.

The approval of the Capital Estimates by the Council will permit Heads of Service to proceed with projects within the Capital Estimates unless:

- the actual tender price of the project or the revised estimate of the project exceeds the provision in the Capital Estimates, or
- the nature of the capital project has changed substantially from that envisaged when the Capital Estimates were approved.

In these cases, fresh approval will be sought from the Cabinet before the project proceeds, which approval will be given only if the capital expenditure can be contained within the overall capital allocation or if additional funding is identified.

### Control of Capital Expenditure

No expenditure will be incurred without the approval of the Cabinet except as authorised by the Council's Scheme of Delegation to Officers and the Standing Orders Relating to Contracts.

No capital expenditure chargeable to the Capital Account will be incurred unless the expenditure is provided for in the Capital Estimates and meets the definition of capital expenditure in the CIPFA Code of Practice, which states that "the expenditure results in the acquisition, construction, or enhancement of fixed assets (tangible and intangible) in accordance with proper practices". Scottish Ministers may also issue guidance that it would be proper practice to capitalise specified expenditure. The Capital Programme and Assets Group (CPAG) will ensure that projects comply with the definition of capital expenditure.

The approval of the Cabinet will be required before a new capital project outwith the financial plan is introduced into the Capital Estimates. Such approval will be given only if the expenditure can be contained within the capital allocation for that year or if additional funding is identified.

If it becomes apparent after the start of a capital project that it will be considerably over or under spent, or if the phased expenditure for the current year is likely to vary significantly, it will be the duty of the appropriate Head of Service to report such variation immediately to the Capital Programme and Assets Group (CPAG). CPAG is responsible for ensuring that the capital programme is delivered on time and for considering where projects may be advanced within the plan. Thereafter, a report on the action taken will be submitted to the Cabinet.

It will be the duty of the Head of Finance to report regularly and timeously to the Cabinet with statements comparing actual financial performance with the respective Capital Estimates.

It will be the duty of the appropriate Head of Service to ensure that any required legal or statutory approvals have been obtained before the commencement of a capital project.

## **Code of Financial Practice 2 Revenue Finance**

### Revenue Estimates

Finance will determine the procedure for the preparation of the Revenue Estimates and will report to the Cabinet on the financial guidelines to be considered for the Revenue Estimates.

Each Head of Service will, in conjunction with the Head of Finance, prepare Revenue Estimates in respect of their Service in accordance with a timetable set by the Head of Finance.

The Revenue Estimates will be submitted to the Council for approval with a recommendation as to:-

- the proposed expenditure and income for the financial year ahead;
- the Council Tax to be levied and the level of bad debt provision to be applied;
- the council house rent level to be applied.

### Control of Revenue Expenditure

No expenditure will be incurred without the approval of the Cabinet except as authorised by the approved Revenue Estimates, Scheme of Delegation to Officers and the Standing Orders relating to Contracts.

No expenditure chargeable to a revenue account will be incurred unless it has been included in the Revenue Estimates, except:-

- where a supplementary estimate has been approved by the Cabinet;
- in emergency situations in terms of the Scheme of Delegation to Officers;
- as provided for by the rules on Virement below.

It will be the duty of the Head of Finance to furnish regularly and timeously to all Heads of Service budgetary control statements on the Revenue Account comparing actual performance with the respective Estimates.

It will be the duty of the Head of Service concerned to ensure that items of expenditure in the Revenue Estimates of their Service are not overspent and that the income and expenditure of their Service conform to the requirements of this Code of Practice and their delegated powers under the Scheme of Delegation to Officers.

Heads of Service will also provide the Head of Finance with whatever assistance and information considered necessary in order to ensure the effectiveness of the budgetary control system.

It will be the duty of the Head of Finance to provide reports to Cabinet on the current financial position of the Council in accordance with the agreed reporting schedule, or more frequently if it is considered appropriate.

## Virement

Virement will be permitted only in the following circumstances:-

- A deficit under those subjective headings of expenditure and income and objective headings as defined in Appendix 1 may be balanced by a transfer from another head of expenditure or income on which there is a surplus where the deficit has arisen due to circumstances which could not have been foreseen and the transfer would not involve a change of policy of the Council. Where a net saving could be achieved by overspending under one head of expenditure without changing the policy of the Council, a transfer may be made from a head of expenditure or income which is in surplus.
- Virement will not create an additional overall budget liability. One-off savings or additional income should not be used to support recurring expenditure or to create future commitments including full-year effects of decisions made part way through a year.
- All transfers will be authorised by the appropriate Chief Officer concerned and Financial Services. Where the amount transferred from a budget heading is over £100,000 (either as a single transfer or the sum of transfers within a financial year) or where the transfer of any amount would affect the execution of existing Council policy the approval of the Cabinet will be required. Lower amounts will be authorised within Finance as follows:
  - Finance Manager up to £20,000
  - Senior Manager (Financial Services) £20,001 to £50,000
  - Head of Finance £50,001 to £100,000

Where it appears that the actual amount of any item of income or expenditure may vary significantly from that appearing in the Revenue Estimates, it will be the duty of the Executive Director concerned, in conjunction with the Head of Finance, to report the details of the variance and any remedial action required to the Cabinet as soon as possible after the variance has become apparent.

All reports presented to Cabinet by Executive Directors must specifically identify the extent of any financial implications, having firstly consulted with the Head of Finance on these financial implications. Any such implications must be clearly stated in the reports to Cabinet, identifying the following:

- costs and income in the current and future financial years;
- the impact on capital and revenue spending;
- the extent of budget provision and, if none, how and from where it is proposed that such financial resources be obtained.

The rules concerning budget virement within those areas of the Communities Directorate that fall within the Council's Devolved School Management (DSM) scheme (see Appendix 1) are separately defined by the DSM policy.

## **Code of Financial Practice 3 Control of Income**

### Determination of Charges

Each Head of Service will review not less than annually the charges for goods and services provided by their Service and, except where the charge is fixed externally, or unless otherwise provided for in the Scheme of Delegation to Officers, will submit proposals thereof for the consideration of the Council.

In order to preserve the real value of such income, increases recommended to Council should have regard to the cost of providing the service, the current rate of inflation and the impact of any change in the rate of value added tax.

### Accounting Arrangements

The Head of Finance will make adequate financial and accounting arrangements to ensure the proper recording and collection of all monies due to the Council.

All official forms and books for the expenditure and collection of monies will be in a form approved by the Head of Finance and will be ordered, controlled and issued to Services by the Head of Finance or under arrangements approved by the Head of Finance.

### Notification of Income to Finance

All debtors' accounts for income due to the Council will be rendered by, or under arrangements approved by, the Head of Finance.

### Treatment of Monies Collected

All monies received on behalf of the Council in any Service will be recorded and deposited with the Head of Finance or the Council's Bankers in accordance with arrangements made with the Head of Finance.

Receipts will be issued for all monies collected and the receipt should indicate the method of payment, i.e. cash, cheque, credit or debit card. All **cash** receipts exceeding £3,000 must be accompanied by adequate personal identification which confirms the identity of the person making the payment and should be notified to the Senior Manager (Audit, Fraud, Safety and Insurance) in accordance with the Council's policy in relation to money laundering.

Heads of Service will be responsible for ensuring adequate custody and control of all cash held within their Service. Cash held should not exceed the maximum limits for cash holdings agreed with the Head of Finance.

Where a service identifies any cash shortage of more than £50 between transactions recorded and physical cash banked, contact must be made with the Internal Audit section in accordance with the Council's Defalcation Procedures.

No deduction will be made from such monies unless specifically authorised by the Head of Finance (e.g. income refunds, library refunds).

Cash discount will not be offered to any debtor.

### Personal Cheques

Personal cheques will not be cashed from monies collected on behalf of the Council.

### Transfers of Cash, Cheques and other Cash equivalents

All transfers of responsibility for cash, cheques or other cash equivalents from one member of staff to another will be evidenced in the records of the Services concerned by the signature of the receiving officer.

Where the monetary amount transferred is not physically verified upon transfer, staff must ensure that the reason for non-verification is recorded (e.g. sealed bank bag with serial number noted, locked cash box, signed cheque or bank withdrawal slip).

### Write-offs

Sums due to the Council will not be written-off without the prior written approval of the Head of Finance. The Debt Recovery team, Sheriff Officers and Legal Services will, after all recovery action has been exhausted, recommend a debt is written off to the Head of Finance on an annual basis.

Services will be notified of the amounts written off and a full list of accounts will be available upon request.

Sums written-off will be written back to the service account to which the income was originally credited when the invoice was raised.

### Grant Income

The Head of Finance will be advised timeously of all relevant information so that applications for grants due to the Council may be submitted or certified. All applications for grant funding will require to be notified to the Head of Finance prior to submission to the funding body.

All remittance advices in relation to grants received are to be addressed directly to the Head of Finance.

## **Code of Financial Practice 4a Treasury Management**

### Treasury Policy Statement and Practices

The Council has adopted the key recommendations of the CIPFA document 'Treasury Management in Public Services: Code of Practice' (the Code) as described in section 4 of that Code. Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:

- an 'Annual Treasury Management and Investment Strategy' identifying policies with regard to treasury management and the objective of these, and;
- suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the Strategy and TMPs will follow the recommendations contained in sections 6 and 7 of the Treasury Management Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.

The Head of Finance will provide reports on the Council's treasury management policies, practices and activities. This will include, as a minimum, the annual strategy and plan in advance of the year to Council, a mid-year progress report to Cabinet and an annual report to Council, in the form prescribed in the Council's TMPs.

### Borrowing and Leasing

All borrowing arrangements of the Council for the purpose of its functions will be made by the Head of Finance and the arrangements made will be reported regularly to the Cabinet in accordance with the Council's treasury management strategy.

All borrowings on behalf of the Council will be affected in the name of the Council. The Head of Finance, or officers authorised by the Head of Finance, will sign all loan documents unless statute or other legal requirements provide that other signatures are required.

### Registrar of Stocks, Bonds and Mortgages

The Head of Finance will be the Registrar of Stocks, Bonds and Mortgages and will maintain records of all borrowing of money by the Council.

### Leasing

No leasing of equipment or other capital assets will be undertaken without the prior approval of the Head of Finance.

### Investments and Trust Funds

North Ayrshire Council funds will be invested in the name of the Council or in the name of nominees approved by the Cabinet.

Surplus funds will only be invested in financial institutions listed in the Treasury Management Strategy statement.

All Trust Funds will, wherever possible, be held in the name of the Council.

All officers acting as trustees by virtue of their official position will deposit all securities, bank books and documents (other than title deeds to heritable property) and articles of value relating to any trust with the Head of Finance unless the relevant trust deed otherwise provides.

### Control of Charitable Funds and Common Good funds

The Head of Finance will ensure the proper and safe custody and control of all charitable funds held by the Council and that all expenditure is in accordance with the conditions of the Fund.

## **Code of Financial Practice 4b Banking**

### Banking Arrangements

The Head of Finance is responsible for appointing the Council's Bankers. This should be carried out in accordance with the Council's tendering procedures.

All arrangements with the Council's Bankers concerning the Council's bank accounts, the issue of cheques and all other banking services will be made by the Head of Finance.

The Head of Finance will be an authorised signatory for all the Council's bank accounts.

Official bank accounts bearing the Council's name will be opened or closed only by the Head of Finance.

All monies received will be paid into the Council's bank accounts daily or at such other intervals as may be approved by the Head of Finance and will be accounted for in accordance with arrangements made with the Head of Finance.

All arrangements for the ordering, controlling and signing of cheques on behalf of the Council will be made by the Head of Finance.

## **Code of Financial Practice 5 Imprests**

### Provision of Imprests

The Council uses Corporate Procurement Cards for the provision of imprests.

### Procurement Cards

The Council has a Corporate Procurement Card (P-Card) system in place, this provides an enhanced service which incorporates electronic monitoring and approval of spend. Procurement cards offers a more transparent alternative to petty cash, offering benefits for staff in service areas as well as prompt payment for suppliers. Replacing the use of cash with the use of cards will reduce the amount of petty cash required.

P-cards are issued subject to the discretion of the Head of Finance.

P-cards are in the name of North Ayrshire Council, but individual Cardholders names are held within the records system. Each card has a limit (inclusive of VAT) for a single transaction as well as a cumulative monthly limit.

Individual P-cards will be set up for specific categories of spend relevant to the individual cardholder and service area.

P-Cards can also, for pre-approved individuals, be used to withdraw petty cash up to a pre agreed limit.

No cash should be withdrawn where a purchase can be made by raising a Purchase Order or using the P-card online, instore or over the telephone.

All P-Card transactions must be reviewed and approved via Secure Data Online (SDOL). Access to the SDOL is via unique usernames and passwords and separation of duties between the cardholder and the approver is controlled and monitored.

## Accounting Arrangements for Imprest

Due to bank charges it is recommended that cash withdrawals should be £100 or greater.

Cardholders must maintain a petty cash spreadsheet showing all sums of money withdrawn and expenditure incurred. The balance on the spreadsheet should reflect the balance of money on hand at all times.

Cardholders and approvers must ensure that cash transactions are reviewed and approved regularly within SDOL.

In normal circumstances, if the amount of cash on hand requires replenished, the previous cash withdrawal should be reconciled within SDOL prior to the next withdrawal.

The Procurement Team monitor the use of the P-cards to ensure that cardholders are compliant with the Procurement Card – Policy and Procedures

## Closure of Accounts

Where a cash or card facility is no longer required it will be withdrawn by the GPC Card Administrator within the Corporate Procurement Unit.

## Guidance

Detailed Guidance is given via the 2 documents detailed below:

- 1) Procurement Card (PCard) – Policy and Procedure Reference Guide
- 2) Procurement Card (PCard) – Imprest Petty Cash Reference Guide

Both documents are available on the intranet.

## **Code of Financial Practice 6 Tax Management**

### Value Added Tax (VAT)

The Head of Finance will ensure that:

- transactions follow the relevant statutory requirements and rules;
- the Council's liability for paying tax is kept as low as possible;
- the rate of 'tax flow' (i.e. the recovery of tax which is due to the Council) is kept as high as possible, and;
- guidance is issued to employees involved in processing tax-related transactions.

Heads of Service must ensure that guidance is sought from the Head of Finance on the VAT implications of any new or unusual transactions before committing the Council.

### Income Tax

The Head of People and ICT will ensure that income tax is deducted where appropriate from payments to employees and remitted to HM Revenue and Customs timeously.

Heads of Service must ensure that guidance is sought from the Head of People and ICT on the tax implications of any new employee initiatives before committing the Council.

Returns of income tax deducted will be made to HM Revenue and Customs in accordance with statutory deadlines and employees will be issued with a P60 showing the amount of income tax they have paid by 31<sup>st</sup> May each year.

## **Code of Financial Practice 7 Insurance and Risk Management**

### Insurance

The Head of Finance will make appropriate Insurance arrangements for all aspects of the Council's activities and will arrange the negotiation of all insurance claims by the Council, in consultation with other officers where necessary. Delegated authority has been granted to the Head of Finance to negotiate and settle liability claims.

Executive Directors or Heads of Service must not admit liability or give any indication that the Council may make an offer of settlement.

Executive Directors and Heads of Service will give prompt notification to the Head of Finance of all new or increased risks, properties or vehicles which should be covered by insurance and of any alteration affecting existing insurances.

### Notification of Claims

Executive Directors and Heads of Service will notify the Insurance section immediately of any loss, liability or damage or any event likely to lead to an insurance claim. Thereafter the Insurance section will be responsible for advising the insurance company concerned.

### Review of Insurance Portfolio

The Head of Finance will annually review all insurance covers in consultation with Executive Directors and Heads of Services as appropriate. All Insurance policies will be subject to tendering procedures every 5 years.

### Responsibility for Security

Each Executive Director and Head of Service will be responsible for maintaining proper security, custody and control at all times of all plant, buildings, materials, stores, furniture, equipment and cash etc. under their control. Services will notify the Insurance section immediately of circumstances resulting in financial loss or circumstances likely to result in a claim against the Council's insurance policy.

### Limits to Cash Holdings

Executive Directors and Heads of Service will notify the Insurance section of safes used to hold cash. The Insurance section will notify Services of the insured cash limits that should not be exceeded. In exceptional circumstances where cash limits are likely to be exceeded guidance should be obtained from the Insurance Section.

## Safe Keys

Keys to safes and similar receptacles holding cash or valuable documents will not be left in premises overnight. Safe keys will be carried by the responsible person at all times and the loss of safe keys will be reported immediately to Internal Audit. Services will maintain a log of all such key holders and transfers of keys in order that a clear audit trail is always available of which member of staff had responsibility for safe keys at any particular time.

## Risk Management

The Risk Management Strategy contains the framework to be adopted to ensure risk is properly identified and controlled within the authority.

### Identification of Risk

The Head of Finance will be responsible for the co-ordination of a Strategic Risk Register. All Executive Directors and Heads of Service will be responsible for ensuring that suitable arrangements for the identification, recording and monitoring of risks are established within their Service.

### Security of Pre-printed and Pre-signed cheques

The Head of Finance will ensure that secure arrangements are made for the preparation and holding of pre-printed / pre-signed cheques, stock certificates, bonds and other financial documents.

### Security / Retention of Documentation

Each Executive Director and Head of Service will be responsible for maintaining proper security, custody and control of all documents within their Directorate. All documents and records will be retained for the minimum prescribed duration as set out in the Council's Master Retention Schedule.

### IT Security

Each Executive Director and Head of Service will be responsible for ensuring that all staff within their Service comply with the Council's ICT Acceptable Use Policy and associated documents.

Each Executive Director and Head of Service will also consult the Senior Manager (ICT) in any case where security of IT systems is thought to be defective or where it is considered that special security arrangements may be required.

## **Code of Financial Practice 8 Salaries and Wages**

### Information regarding Payroll Amendments

Each Head of Service will notify the Head of People and ICT timeously of all matters affecting the payment of salaries, wages and other emoluments, in particular:

- appointments, resignations, dismissals, suspensions, secondments and transfers;
- changes in remuneration (other than normal increments), agreements of general application and changes in terms and conditions of service;
- absences from duty for sickness or other reason apart from approved paid leave;
- information necessary to maintain records of service for superannuation, income tax and social security purposes.

### Arrangements for Payments

The payment of all salaries, wages and other emoluments to all employees of the Council will be made by the Head of People and ICT

### Form and Certification of Records

All pay documents will be in a form prescribed or approved by the Head of People and ICT.

All timesheets will be completed and signed (manually or electronically) by the employee themselves confirming the accuracy of the claim except in cases of illiteracy when a supervisor may complete them, suitably endorsing the timesheets to this effect. Timesheets will not be completed, authorised or passed for payment in advance of work being undertaken.

All pay documents will be certified in manuscript, electronically via HR21by or by email by an approved authorised signatory on behalf of the appropriate Head of Service. Signature stamps will not be used for this purpose.

Details of Officers authorised to certify such documents (name, designation and email address) will be sent to the Head of People & ICT by Heads of Service. The relevant Head of Service will be responsible for advising any changes. Where a Service is responsible for its own information processing, the names of officers authorised to certify pay documents will be provided to the appropriate input staff.

### Off-payroll Working (IR35)

It is the responsibility of all budget holders to identify all worker and contractor relationships, which are not administered through North Ayrshire's Payroll arrangements, and ensure that appropriate consideration is given to the nature of the relationship, including the completion of Status Determination Statements where appropriate.

Guidance on the assessment of potential off payroll working relationships is available from the Head of People and ICT and all completed Status Determination Statements should be retained by the Budget Holder for a minimum of 6 years.

Any relationship which is assessed as being within the scope of IR35 must be reported to the Head of People and ICT to allow arrangements for all payments to be included within standard arrangements for the deduction of appropriate tax and national insurance contributions.

## **Code of Financial Practice 9 Expenses**

### Arrangements for Claims

The Head of People and ICT will be responsible for the regulation, administration and payment of claims for expenses and allowances to members and employees of the Council.

### Employees' Claims

All claims for payment of travelling allowances, subsistence allowances, car allowances and incidental expenses, duly certified in manuscript on the appropriate official form provided by the Head of People and ICT or processed electronically via the expenses module on HR21 self-service system will be submitted to Employee Services on a regular basis.

Claims will not be paid from imprest accounts. All such expenses will be paid via the Payroll System except in extraordinary circumstances, in which case the approval of the Head of People and ICT will be required for an alternative method of payment.

Claims for travelling and subsistence allowances must be accompanied by the appropriate receipts. Claims for car allowances must be accompanied by a VAT receipt for fuel, dated prior to the first journey. Where claims are processed via HR21 receipts must be retained by the Service in accordance with retention details outlined within the HR21 user guide.

In signing an expense claim form or submitting via HR21, employees are confirming that they have a valid driving licence and appropriate insurance arrangements in place to cover their vehicle for business use. Heads of Service must ensure that driving licences and insurance documents are inspected on an annual basis and details recorded on the Council's integrated HR and payroll database.

### Certification of Employees' Claims

The Head of each Service will arrange for the certification in manuscript or approval via HR21 by an officer of their Service of all claim forms. The certification by or on behalf of the Head of Service will be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenditure was wholly, exclusively and necessarily incurred in the course of the employment of the claimant and that any allowances are properly payable. Claims must not be submitted for approval or approved in advance on the expense being incurred.

Details of Officers authorised to certify such documents (name, designation and email address) will be sent to the Head of People & ICT by Heads of Service. The relevant Head of Service will be responsible for advising any changes. In addition, an annual review of such authorisations will be carried out by each Service to ensure that the list of names submitted to the Head of People and ICT is complete and up to date.

No officer authorised to certify such claims will certify their personal claim. Personal claims must be certified by a separate authorised signatory.

## Cash Advances

Cash advances will only be made in exceptional circumstances when other means of payment is not available.

The Head of each Service will arrange for the certification in manuscript by an officer of their Service of all cash advances. The certification by or on behalf of the Head of Service will be taken to mean that the certifying officer is satisfied that the cash advance is necessary in the course of the claimant's employment and that no other means of meeting the anticipated expenses is available.

Officers authorised to certify cash advances will not certify a cash advance to themselves.

All requests for cash advances, duly certified in manuscript on the appropriate official form provided by the Head of Finance, will be submitted to the Head of Finance for payment.

The officer to whom an advance is given will be fully accountable for the advance.

Immediately after the event for which the cash advance is given the accountable officer, using the appropriate official form, will prepare a detailed statement of expenses incurred, with supporting receipts and invoices, which reconciles to the amount of the cash advance. The reconciliation, duly certified in manuscript by an officer authorised by the Head of Service to certify claims for expenses and allowances, will be submitted to the Head of Finance along with the remaining unspent cash balance.

## Elected Members' Allowances

Members' Allowances will be paid in accordance with the Council's approved Scheme of Members' Allowances and national regulations.

Payments to Elected Members who are entitled to claim allowances will be made by the Head of People and ICT on receipt of the prescribed form properly completed and certified in manuscript. Claims will be checked by Democratic Services prior to submission for payment.

Claims will be submitted promptly, and on a regular basis, and in any case claims applicable to a financial year will be submitted within one month after 31st March in that year.

The Head of Democratic Services will maintain a record of members allowances, showing the name of the recipient and the amount and nature of the payments. This record will be available for public inspection and will be published on the Council website not later than June 1<sup>st</sup> each year.

## **Code of Financial Practice 10**

### **Procurement of Goods and Services and Payment of Accounts**

#### Official Orders

All goods, materials and services supplied to or work executed for the Council will be ordered or confirmed in writing by means of an official order, by written acceptance of a tender or offer, or by an electronic order through an eProcurement system. The only exceptions are for purchases using procurement cards, petty cash purchases, supplies of Public Utility services and periodic payments such as rates.

Each order will conform to the Council's Standing Orders relating to Contracts in order to demonstrate best value procurement.

#### Authorisation of Orders and Acceptances

Orders and acceptances of tenders or offers will be authorised either electronically or in writing only by officers certified to do so by the Head of Service of the ordering Service and in accordance with the Council's Standing Orders Relating to Contracts. Signature stamps will not be used for this purpose. Each Service will maintain a current list of officers so authorised.

Limits regarding the level and type of expenditure to which authorising officers can commit the Council will be formalised and maintained by each Head of Service and will be recorded on the list of authorised officers, which will be held by the Head of Finance.

#### Checks on Goods, Materials and Services Received

It will be the duty of the Head of each Service that places an order to ensure that all goods, materials and services received following the placing of such orders are as ordered in respect of price, quality and quantity.

Where goods have been ordered using the e Procurement system, the receipt of goods will also be recorded against the appropriate order on the system.

#### Method of Payment

Apart from payments from imprest accounts (petty cash payments) the normal method of payment of money due from the Council will be by BACS, cheque , Procurement card or other instrument drawn on the Council's bank account(s) by the Head of Finance or any person or persons authorised by the Head of Finance.

The Council's preferred method of payment will be by BACS.

## Certification for Payment

A list of authorised signatories (including their financial limit) for certifying the payment of accounts will be supplied and certified by all Heads of Service to the Head of Finance. Additions and deletions will be notified to the Head of Finance as they occur. Heads of Service will review the lists annually and confirm to the Head of Finance that this has been done.

There is no need to batch invoices as each invoice will be dealt with individually. Heads of Service must ensure that Authorised Signatories only sign invoices within their financial limits.

Once the invoice has been appropriately certified in accordance with the checks below, the Head of Service or other authorised officer intimated to the Head of Finance will pass it without delay to the Accounts Payable team to ensure any offer of cash discount for early payment is received and that financial penalties for late payment are avoided.

## Invoices relating to non-electronic orders

The Head of each Service which incurs expenditure will arrange for the certification either in manuscript or electronically by an authorised signatory of their Service that all accounts and invoices for payment comply with the following:

- the expenditure is on items or services which it is within the Council's legal powers to incur;
- the goods, materials, services or work to which the account relates have been received or carried out and have been examined and approved and are in accordance with the order and the Goods Received Note;
- the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
- the relevant expenditure has been properly incurred and is within the relevant estimate provision;
- appropriate entries have been made in the inventories or stores/stock records as required;
- the appropriate financial ledger code numbers are entered on the document for payment.

Corporate Procurement have designed an invoice stamp that should either:

- be ordered and used by Services when invoices are approved manually.
- be set up as a stamp within Adobe to allow for the electronic signing of individual invoices.

Services should not amend the stamp in any way or use any other stamp.

Corporate Procurement are working on an electronic invoice approval workflow process (for non-electronic orders) through the Integra system. When this has been tested and rolled out across Services the need for manually stamping and signing invoices will no longer be the preferred option.

## Invoices relating to electronic orders

The eProcurement systems have controls in place to ensure that only Authorised Officers (as approved by their Head of Service) can approve orders and invoices. The eProcurement systems will not allow payment to be made unless the goods are recorded as being received and the invoice value agrees with the order or is within a tolerable variance. Any invoices that are out with the pre-set tolerances, will automatically be sent via the Integra electronic invoice certification process to the order approver to either accept or reject. There is therefore no

requirement to use the invoice stamp or manually sign/authorise invoices for orders that have been processed through the eProcurement systems.

### Procurement Cards

Procurement Cards may be used by Services for high volume transactions, one-off low value purchases and/or internet purchases.

All applications for a Procurement Card require to be authorised by a Head of Service, Manager (Grade 14 and above) or Head Teacher.

All transactions are required to be approved on the procurement card system by an authorised approver. The system is administered by Corporate Procurement. It is the responsibility of all card holders and approvers to ensure transactions are approved promptly.

The Council's monthly statement is processed for payment by Corporate Procurement and all transactions made by individual Services will be journalled against the appropriate finance code.

### Duplicate Invoices

Payment will not be made on duplicate, photocopied or faxed invoices unless the appropriate Head of Service or other authorised officer within the appropriate Service certifies in writing that the amounts have not previously been passed for payment.

### Pro-forma Invoices

Payment will not normally be made on 'pro-forma' invoices that state 'this is not a VAT invoice'. In exceptional circumstances where such payments may be made, it will not be possible for the Council to recover VAT.

### Amendments to Invoices

No changes will be made to tax invoices which must instead be returned to the creditor for amendment and reissue.

### IR35 – Off Payrolling

The only exception to the above statement is where the Council needs to comply with Off- Payroll Working in the Public Sector known as IR35 (Intermediaries legislation). Where applicable the Council will amend the invoice to reflect a deduction of both PAYE and National Insurance Contributions.

It will be the duty of each Head of Service who approves the engagement of services to ensure that the employment status has been determined in line with the IR35 Reforms, Status Determination Statements are produced and issued for all PSC arrangements and that relevant documentation is retained and is accessible for audit purposes.

## **Code of Financial Practice 11 Contracts for Supplies, Services and Works**

### Contracts Register

The Corporate Procurement Unit (CPU) will maintain a record of all contracts held over the value of £10,000 on the Council's Corporate Contract Register.

The Corporate Register includes the following information:

- Contract Award date
- Contract Title
- Successful contractor(s)
- Contract Estimated Value
- Contract Start & End dates (excluding optional extensions)
- Period of extension

The Corporate Register will be published on the Council's external website.

### Variations to Capital Contracts

All instructions to contractors on project work will be issued by the responsible officer using the appropriate official variation order procedure or via a formal Architect's Instruction (AI)

If it becomes apparent after the start of a project that it will be over or under spent by 0.5% or more, or if the phased expenditure for the current year is likely to vary significantly, it will be the duty of the appropriate Head of Service to report such variation immediately to the appropriate Directorate Project Board and thereafter to the Capital Programme and Asset Group (CPAG). Thereafter, an update will be provided to Cabinet on the action taken.

### Claims from Contractors

Claims from contractors in respect of matters not clearly within the terms of any existing contract will be referred to the appropriate Service Executive Director, Head of Democratic Services for consideration of the Council's liability and to the Head of Finance for consideration before a settlement is reached.

### Delay of Contract

Where completion of a contract is delayed it will be the duty of the responsible officer in consultation with the Head of Democratic Services to take appropriate action in respect of any claim for liquidate or other damages.

## Interim Payment

Interim payments to contractors will be certified by the authorised officers responsible for the control and supervision of the work.

## Procurement Guidance/Procedures

All matters relating to contracts should be conducted in accordance with the following Council Documents and other guidance that may be issued by the Council's Corporate Procurement Unit and Head of Democratic Services.

- Standing Orders Relating to Contracts
- North Ayrshire Council Procurement Manual
- Appropriate terms and conditions relating to the specific contract
- [HR Policy & Procedure: Engaging Agency Workers and Personal Service Companies](#)

## **Code of Financial Practice 12 Assets**

### Asset Registers

Detailed registers of the Council's assets will be maintained as follows:

- Housing properties – Head of Physical Environment
- Other properties – Head of Physical Environment
- Fleet – Head of Commercial Services
- Open spaces - Head of Commercial Services
- Roads - Head of Commercial Services
- ICT – Head of People and ICT

### Title Deeds

The Head of Democratic Services will have custody of all title deeds under secure arrangements.

### Capital Accounting Register

The Head of Finance will maintain a register of all assets owned by the Council recording for each one the type of asset, asset value, asset life and depreciation policy. The information recorded in the fixed asset register will be subject to a de-minimus asset value to be determined from time to time by the Head of Finance. The details contained within the fixed asset register will be reconciled annually with the asset registers.

## **Code of Financial Practice 13 Stores and Inventories**

### Custody of Stores and Stocktaking

Arrangements made by Heads of Service for costing and stock control systems will be subject to the approval of the Head of Finance.

The care, custody and level of stores and equipment in any Service will be the responsibility of the appropriate Head of Service who will ensure that:

- stocktaking is carried out at regular intervals.
- all obsolete or excess stock or scrap material is identified and disposed of in accordance with the Standing Orders relating to Contracts and the Scheme of Delegated Functions.

All stock write-offs will be notified to the Head of Finance.

Heads of Service will supply the Head of Finance with a certificate within timescales laid down that states the financial value of stocks held at the year-end.

### Inventories

Each Head of Service will ensure that inventories will be maintained at locations used by their staff.

Inventories will be maintained in accordance with the inventory procedures issued by Internal Audit.

## Appendix 1

### Definition of Subjective and Objective Expenditure and Income Heads

#### Subjective Expenditure Heads

Employee Costs
Property Costs
Supplies and Services
Transport Costs
Administration Costs
Third Party Payments
Transfer Payments
Other Expenditure
Capital Financing Costs

#### Subjective Income Heads

Government Grants
Other Grants
Subsidies
Other Authorities
Sales, Fees and Charges
Internal Recharges
Funding
Energy Income
Financing Income
Insurance Income
PPP Income
Penalties
Recovery of Costs

## Objective Expenditure Heads

Democratic Services	Chief Executive and Business Support
	Ayrshire Area Support Team
	Information Governance
	Legal
	Policy, Performance and Elections
	Communications
	Committee and Member Services
	Civil Contingencies
Finance	Head of Service
	Financial Services
	Corporate Procurement
	Transformation
	Audit, Fraud, Safety and Risk & Insurance
People and ICT	Head of Service
	Employee Services
	Human Resources and Organisational Development
	ICT
	Customer Services and Business Support
Communities	<b>Early Years**</b>
	<b>Primary Education**</b>
	<b>Secondary Education**</b>
	<b>Additional Support Needs**</b>
	Education Other
	Pupil Equity Fund
	Attainment Challenge
	Connected Communities
	Community Planning

Place	Management and Administration
	Building Services
	Property Management & Investment
	Property Maintenance
	Property Running Costs
	Roads
	Energy and Sustainability
	Waste Management
	Streetscene
	Facilities Management
	Transport
	Housing
	Economic Growth
Health and Social Care	Management and Support Services
	Children, Families and Criminal Justice
	Health and Community Care
	Mental Health, Learning Disabilities and Addiction
	Change Programme (HSCP)
	Challenge Fund
Corporate Items	Joint Boards
	Pension Costs
	Loan Charges & Capital Charges
	Other Corporate Items

**\*\* Virement within these objective heads in Communities will be subject to the conditions of the Council's approved Scheme of Delegation to Schools.**



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## NORTH AYRSHIRE COUNCIL

18 May 2022

### North Ayrshire Council

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<b>Title:</b>	<b>Councillors' Remuneration : Senior Councillors</b>
<b>Purpose:</b>	To advise Council of the Councillor remuneration levels, and to seek confirmation of those posts appointed as Senior Councillor.
<b>Recommendation:</b>	<p>That the Council agrees (a) to note the recommended remuneration and expenses outlined in the Regulations; and (b) to consider the appointment of the following posts, in addition to the Leader and Provost, as Senior Councillors:</p> <ul style="list-style-type: none"><li>• Depute Leader (75% of Leader's salary) £29,361</li><li>• The Leader of the Main Opposition (75% of Leader's salary) £29,361</li><li>• Depute Provost £24,466</li><li>• Those Cabinet Members with portfolio responsibility for services (total 5 posts) £24,466</li><li>• The Chair of the Audit and Scrutiny Committee £24,466</li><li>• The Chair of the Licensing Committee/Board £24,466</li><li>• The Chair of the Planning Committee £24,466</li></ul>

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## 1. Executive Summary

- 1.1 This report summarises the remuneration for all Councillors and seeks confirmation of those posts of significant responsibility which are entitled to a Senior Councillor salary.

## 2. Background

### Current Regulations

- 2.1 Remuneration levels for Councillors is set out in the Local Government (Scotland) Act 2004 (Remuneration) Amendment Regulations 2022. The guidance classifies councils into one of four bands, linked to size, with North Ayrshire sitting within band B.
- 2.2 Under the Regulations the remuneration of the Leader of North Ayrshire Council is set at £39,148.
- 2.3 The Regulations also allow the Council to appoint one Civic Head, the Provost, at a salary of 75% of the Leader's salary (£29,361).

- 2.4 In addition to the Leader and the Civic Head, each local authority may have a number of Senior Councillors. These are councillors who hold a significant position of responsibility in the Council's political management structure, for example, a chair of a major committee, Portfolio Holder or the leader of the main opposition group. Senior Councillors attract higher salaries due to their significant additional responsibilities. Subject to the restrictions set out in 2.5, individual local authorities have the flexibility to determine which positions should be considered Senior Councillors and the number of such positions. Senior Councillors should be paid according to the level of responsibility they hold and this can result in differing levels of salary.
- 2.5 The three restrictions that apply are:
- The limit on the number of Senior Councillor posts the Council may have is 14;
  - The total budget for paying Senior Councillors is £342,524; and
  - The maximum salary for any Senior Councillor cannot be more than 75% of the remuneration paid to the Leader - £29,361.
- 2.6 If the Council decides to appoint the maximum number of Senior Councillors, based on the total budget available, this would result in a salary of £24,466. The potential salary range for Senior Councillors is £19,571 to £29,361. However, Councils can decide the level of remuneration to be paid to each of the Senior Councillors within the overall budget limit set for that purpose. Senior Councillors should be paid according to the level of responsibility they hold and this may result in different levels of salary.
- 2.7 North Ayrshire Council has produced Guidance on Members' Salaries, Allowances and Expenses which provides further information on all payments to Members.
- 2.8 The roles of the Leader, Provost, Senior Councillor and Councillors are attached at appendices 1 to 4.

#### Previous Senior Councillor Roles and Remuneration

- 2.9 Previously, the Councillors who held Senior Councillor positions were those who held significant positions of responsibility in the Council's political management structure. These were, in addition to the Leader and Provost, the following posts:-
- Depute Leader
  - The Leader of the Main Opposition
  - Depute Provost
  - Those Cabinet Members with portfolio responsibility for services
  - The Chair of the Audit and Scrutiny Committee,
  - The Chair of the Licensing Committee/Board and
  - The Chair of the Planning Committee.

If 5 Cabinet Members held portfolio responsibility for services, a total of 11 Members in addition to the Provost and Leader would be appointed as Senior Councillors.

#### Proposed Senior Councillor Roles and Remuneration

- 2.10 Council previously set two levels of remuneration for Senior Councillors according to the level of responsibility they hold. The salary structure was as follows:

***At 75% of Leader's Salary equivalent to a salary of £ 29,361;***

- Depute Leader
- Leader of the Largest Minority Party.

***Senior Councillors at a salary of £24,466;***

- Depute Provost
- Chair of Audit and Scrutiny Committee
- Chair of Planning Committee
- Chair of Licensing Committee and Licensing Board
- Cabinet Portfolio Holders

- 2.11 While it is normal for portfolio holders to sit on Cabinet, other Members can also serve on Cabinet, albeit at a basic Councillor salary in line with our Scheme of Administration. Where a Member holds more than one Senior Councillor position, and where these have different salaries, only one salary, the highest, is paid.
- 2.12 Based on the foregoing, and assuming that no Member holds more than one Senior Councillor position the cost of Senior Councillors' remuneration would be £278,916. This would be less than the value of £342,524 outlined in the Regulations.

### **3. Proposals**

- 3.1 Council is requested to consider the appointment of the following posts, in addition to the Leader and Provost, as Senior Councillors, at the salaries proposed:
- Depute Leader (75% of Leader's salary) £29,361
  - The Leader of the Main Opposition (75% of Leader's salary) £29,361
  - Depute Provost £24,466
  - Those Cabinet Members with portfolio responsibility for services (total 5 posts) £24,466
  - The Chair of the Audit and Scrutiny Committee £24,466
  - The Chair of the Licensing Committee/Board £24,466
  - The Chair of the Planning Committee £24,466

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 Total remuneration and component parts require to align with the relevant legislation and regulations. The total cost associated with the proposed senior councillors is £278,916 and available budget provision is in place to support this.

#### **Human Resources**

- 4.2 None.

## **Legal**

4.3 Appointment to key positions require to comply with relevant legislation and regulations.

## **Equality/Socio-economic**

4.4 None.

## **Climate Change and Carbon**

4.5 None.

## **Key Priorities**

4.6 The appointment of Senior Councillors will enable the authority to undertake the strategic roles in the Administration of the Council and satisfy the criteria for the Senior Councillors.

## **Community Wealth Building**

4.7 None.

## **5. Consultation**

5.1 Consultation has been undertaken with the Chief Executive and the Monitoring Officer on the report.

Mark Boyd  
Head of Service (Finance)

For further information please contact **Mark Boyd, Head of Service (Finance)**, on **01294 324560**.

## **Background Papers**

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## Councillor Role Description

### **Key Purpose**

- To represent the views and interests of your ward and its individual constituents and deal with their enquiries and representations fairly and without prejudice.
- To contribute to open government and the development of local democracy through actively encouraging community engagement and involvement in decision making.
- To contribute actively to the formulation and scrutiny of the Council's policies, budgets, strategies and service delivery.
- To champion the best interests of the Council and the community as they relate to the improvement of the quality of life, social, economic and environmental wellbeing of the community and its citizens.
- To work in partnership with others, through Community and Locality Planning Partnerships and otherwise, to help to achieve the above.
- To participate in the decision making processes of the Council having regard to statutory and regulatory requirements and the Councillors' Code of Conduct.
- To work in the interests of North Ayrshire as a whole

### **What the public is entitled to expect of you**

- Reasonable access to you either by surgeries, telephone, mail or e-mail or through the Council to enable them to raise issues and complaints.
- Ensuring that their interests are effectively represented and their complaints fairly addressed.
- Being clear to them about your responsibilities as a member of the Planning Board, Licensing Board or other regulatory body.
- Attendance at meetings of Locality Partnerships, parent councils, community councils and other community groups to which councillors are invited or expected to attend.
- Using your best endeavours to represent your constituent's interests in relation to other public bodies or national service providers, eg Scottish Water and utility companies.
- Adhering to the Councillors' Code of Conduct and to North Ayrshire Council's member/officer protocol.

- Working constructively with other councillors representing the ward to make arrangements to ensure the interests, issues and complaints of constituents are effectively addressed.

### **What the Council is entitled to expect of you**

- Regular attendance at meetings of the Council, Boards, Committees, Locality Partnerships and Working Groups of which you are a member.
- Reading the relevant reports and papers prior to such meetings and keeping up to date with issues affecting local government.
- Treating other councillors and all employees of the Council with respect and dignity.
- Respecting the authority of the Chair at any meeting of the Council, its Boards or other meetings and complying with his or her rulings.
- Respecting the confidentiality of information which has not been made public; not breaching any such confidence; and adhering to any embargoed agreements on confidential or sensitive issues.
- Respecting the limitations on the disclosure of information where there is a requirement of confidentiality placed on some employees of the Council.
- Undertaking training necessary to equip you to fulfil your responsibilities as a councillor.
- Understanding the different responsibilities and roles of councillors and officers.
- Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services;
- Accepting your responsibility not to raise matters relating to the conduct or capability of employees in public.
- Regular attendances as a representative of the Council at meetings of a body to which you have been appointed.
- Understanding and accepting your responsibilities when performing duties as the Chair of a body, to apply all Standing Orders impartially and to refrain from actions or statements that might bring your impartiality into question.
- Understanding and accepting responsibility where you have been appointed as a member of a trust, a company, joint board or joint committee.

- Adhering to the Councillors' Code of Conduct and to North Ayrshire Council's member/officer protocol.

### **What you are entitled to expect of the Council**

- You have right to be consulted by officers on specific matters of interest to you as local councillor e.g.
  - Whenever a meeting is organised by the Council to consider local issues, all councillors representing the wards effected should normally be invited to attend. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue the local councillors should be notified at the outset;
  - To be consulted on all significant new projects and initiatives in their ward at the planning stage in order that their views may be taken into account;
  - To be advised of any significant work being undertaken by the Council in their ward and where it is known by any other statutory undertaker, eg Scottish Water, which is likely to inconvenience the public for any significant length of time;
  - To be consulted on any other issues which are likely to be of significant interest to the local community in their ward.
- You have the right, as a matter of courtesy, to be informed of visits to your ward by Ministers of the Scottish Government or UK Parliament, where the visit is in connection with one of the Council's responsibilities.

V.2.1 15-04-17

### **Senior Councillors' Role Description**

The following additional key purposes/roles are expected of Senior Councillors:

#### **Key Purpose/roles**

- To provide leadership in relation to policy formulation, implementation and monitoring of the Council's policies, budgets, strategies and service delivery in relation to your specific area of responsibility and to contribute to the effective governance of the Council.
- To ensure that your area of responsibility contributes to promoting the best interests of the Council and the community, and improves the quality of life, social, economic and environmental well-being of the community and its citizens.

#### **Key tasks/accountabilities**

##### **For your area of responsibility:**

- To facilitate policy development through appropriate mechanisms –committees, Locality Partnerships, working groups, working with officers and working in partnership with partner organisations;
- To give political direction to senior officers of the Council in your area of responsibility;
- To chair effectively, relevant committees and working groups;
- To take responsibility for decisions taken within these committees or other forums;
- To support and encourage participation and debate by all councillors in relevant forums including committees and working groups and respond to scrutiny of decisions and service delivery/performance;
- To ensure that effective working relationships with all councillors, officers and relevant partner organisations are developed and maintained;
- To represent and communicate the views and best interests of the Council in relevant forums including the community, the media, partnership organisations and national bodies;
- To monitor, review and comment on performance and budget to ensure that Council policies are implemented and where necessary initiate relevant action;
- To be fully aware of relevant legislative and national and local policy frameworks.

V2.1 15-04-17

### **Leader's Role Description**

The following additional key purposes/roles are expected of the Leader of the Council:

#### **Key Purpose**

- To lead the political administration of the Council;
- To provide leadership in relation to policy formulation, implementation and monitoring of the Council's policies, budgets, strategies and service delivery and to contribute to the effective governance of the Council;
- To provide strategic leadership and clear political direction and guidance to promote the best interests of the Council and the community and improve the quality of life, social, economic and environmental well-being of the community and its citizens.
- To ensure that through Community and Locality Planning, effective working relations are developed throughout the Council and between the Council and external partners in order to promote the best interests of all its communities.

#### **Key tasks/accountabilities**

- To provide strategic, political and cultural leadership for the Council in partnership with the Chief Executive;
- To give direction to the Chief Executive on political matters and participate in the performance review and development of the Chief Executive;
- To have an overview and facilitate corporate and cross cutting policy formulation, strategy development and financial planning;
- To promote partnership working with the community, partner organisations and other service providers, through community and locality planning arrangements;
- To act as the principal Council representative in discussions and negotiations with national bodies;
- To ensure that the political decision making structures of the Council operate effectively;
- To take responsibility for, and promote the Council's policy and political decisions;
- To be the political figurehead and provide an external focus for the Council including handling media and press enquiries;
- To develop and maintain effective working relationships with councillors and senior officials.

V2.1 15-04-17

### **Provost's Role Description**

The following additional key purposes/roles are expected of the Provost of the Council:

#### **Key Purpose**

- To be the civic head of the Council;
- To impartially chair meetings of Council

#### **Key tasks/accountabilities**

The Provost is expected to

- Act as civic head hosting Council events and attending other events as civic leader and representative of the Council and the North Ayrshire communities;
- Promote North Ayrshire's profile to the wider community through public appearances at social, community, cultural and business events and through the media.
- Foster networks with other organisations in both the business and public sectors to support and enhance the development of North Ayrshire and its communities.
- Chair meetings of the full Council and ensure the proper and effective conduct of business in terms of the Council's Standing Orders
- When performing duties as the Chair of Council, to apply all Standing Orders impartially and to refrain from actions or statements that might bring your impartiality into question.
- Foster town twinning and promote good relations with authorities with whom the Council is twinned
- Liaise closely with the Leader of the Council and Chief Executive in terms of the civic roles and functions of the Council.

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**NORTH AYRSHIRE COUNCIL****18 May 2022****North Ayrshire Council**

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**Title:** **Committee Timetable: Remainder of 2022****Purpose:** To invite the Council to consider a timetable of meetings for the period from May until the end of December 2022.**Recommendation:** That the Council agrees:

- (a) to approve the draft committee timetable set out at Appendix 1; and
  - (b) to note that arrangements for Locality Partnership meetings and any ad hoc or Special Meetings will be intimated separately to Members
- 

**1. Executive Summary**

1.1 The Council generally sets a timetable of committee meetings for each calendar year. The appendix to this report sets out a proposed timetable for the remains of the current year. A proposed timetable for 2023 will be presented for consideration later in the year.

**2. Background**

2.1 The proposed timetable of meetings set out at Appendix 1 incorporates meeting of the Council, Cabinet and standing committees of the Council, as well as summer, October and Winter recess period. Arrangements for Pre-Agenda meetings and meetings of the Community Planning Partnership Board are also included, for information.

2.2 The proposed timetable does not include the following meetings which will be intimated separately to Members:

- the six Locality Partnerships, which take place in the early evening on a quarterly basis;
- the Local Development Plan Committee, Staffing and Recruitment Committee, Education Appeal Committee, Appeals Committee and Special Council (Planning), which meet on an ad hoc basis, as required;
- any Special Meetings of the Council and its committees which may be required, including meetings to consider Cabinet Call In requests

- any meetings of the 1<sup>st</sup> Tier Joint Consultative Committee, which sets its own meetings calendar

### **3. Proposals**

3.1 The Council is invited:

- (a) to approve the draft committee timetable set out at Appendix 1; and
- (b) note that arrangements for Locality Partnership meetings and any ad hoc or Special Meetings will be intimated separately to Members.

### **4. Implications/Socio-economic Duty**

#### **Financial**

4.1 None arising from the recommendations of this report.

#### **Human Resources**

4.2 None arising from the recommendations of this report.

#### **Legal**

4.3 None arising from the recommendations of this report.

#### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

#### **Climate Change and Carbon**

4.5 None arising from the recommendations of this report.

#### **Key Priorities**

4.6 None arising from the recommendations of this report.

#### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

### **5. Consultation**

5.1 Group Leaders have been consulted on the proposed timetable.

Craig Hatton  
Chief Executive

For further information please contact **Melanie Anderson, Senior Manager (Committee and Member Services)**, on **01294 324131**

**Background Papers**

None

## Draft Committee Timetable May – December 2022

Meeting Cycle 3

Week Beginning	Week	Monday	Tuesday	Wednesday	Thursday	Friday
9 May						
16 May	1			2.00 p.m. Statutory Council Meeting (first of new Administration)		
23 May	2		11.00 a.m. Audit & Scrutiny Pre-Agenda			
30 May	3		10.00 a.m. Audit and Scrutiny 2.30 p.m. Cabinet Pre-Agenda	10.00 a.m. Licensing	Public Holiday	Public Holiday
6 June	4		10.00 a.m. IJB Pre-Agenda 2.30 p.m. Cabinet (Education)	2.00 p.m. Planning 2.15 p.m. Local Review Body	10.00 a.m. Appeals (if required)	10.00 a.m. Ayrshire Shared Services Joint Committee
13 June	5				10.00 a.m. Integration Joint Board	
20 June	6	2.00 p.m. Ayrshire Regional Economic Joint Committee 4.15 p.m. Council Pre-Meeting		2.00 p.m. Council	11.00 a.m. Community Planning Partnership Board (for info)	10.00 a.m. IJB PAC
27 June		2.00 p.m. Ayrshire Economic Partnership Board				
4 July						
11 July						
18 July				Summer Recess		
25 July						
1 August						
8 August						

### Meeting Cycle 4

Week Beginning	Week	Monday	Tuesday	Wednesday	Thursday	Friday
15 August	1	2.00 p.m, Police & Fire & Rescue	10.00 a.m. IJB Pre-Agenda 2.30 p.m. Cabinet Pre-Agenda	10.00 a.m. Licensing		
22 August	2		2.30 p.m. Cabinet	2.00 p.m. Planning 2.30 p.m. LRB	10.00 a.m. Integration Joint Board	
29 August	3				10.00 a.m. Appeals (if required) 2.00 p.m. Ayrshire Economic Partnership Board	10.00 a.m. IJB PAC 10.00 a.m. Ayrshire Shared Services Joint Committee
5 September	4		11.00 a.m. Audit & Scrutiny Pre-Agenda			
12 September	5		10.00 a.m. Audit & Scrutiny 2.00 p.m. IJB Pre-Agenda 2.30 p.m. Cabinet Pre-Agenda	10.00 a.m. Licensing		
19 September	6	Public Holiday	11.00 a.m. Special Audit & Scrutiny (Accounts) Pre-Agenda 1.00 p.m Council Pre-Meeting TBC 2.30 p.m. Cabinet	2.00 p.m. Council	10.00 a.m. Integration Joint Board	

### Meeting Cycle 5

Week Beginning	Week	Monday	Tuesday	Wednesday	Thursday	Friday
26 September	1	2.00 p.m. Ayrshire Regional Economic Joint Committee	10.00 a.m. Special Audit & Scrutiny (Accounts) TBC 2.30 p.m. Cabinet (Education)	2.00 p.m. Planning 2.30 p.m. LRB	10.00 a.m. Appeals (if required)	9.00 a.m. Staffing & Recruitment
3 October	2	NHS Board (TBC)				
10 October			10.00 a.m. IJB Pre-Agenda	October Recess		
17 October	3			10.00 a.m. Licensing	10.00 a.m. Integration Joint Board	9.00 a.m. Staffing & Recruitment
24 October	4		2.30 p.m. Cabinet Pre-Agenda	2.00 p.m. Planning 2.30 p.m. LRB		
31 October	5	2.00 p.m. Council Pre-Meeting	2.30 p.m. Cabinet	2.00 p.m. Council	10.00 a.m. Appeals (if required)	10.00 a.m. Ayrshire Shared Services Joint Committee

## Meeting Cycle 6

Week Beginning	Week	Monday	Tuesday	Wednesday	Thursday	Friday
7 November	1		11.00 a.m. Audit & Scrutiny Pre-Agenda 2.00 p.m. IJB Pre-Agenda		2.00 p.m. Ayrshire Economic Partnership Board	
14 November	2	2.00 p.m. Police & Fire & Rescue	10.00 a.m. Audit and Scrutiny	10.00 a.m. Licensing	10.00 a.m. Integration Joint Board	
21 November	3	2.00 p.m. Ayrshire Regional Economic Joint Committee	2.30 p.m. Cabinet Pre-Agenda	2.00 p.m. Planning 2.30 p.m. LRB		10.00 a.m. IJB PAC
28 November	4	NHS Board (for info) TBC	2.30 p.m. Cabinet (Education)			10.00 a.m. Ayrshire Shared Services Joint Committee
5 December	5		10.00 a.m. IJB Pre-Agenda	10.00 a.m. Licensing	10.00 a.m. Appeals (if required)	
12 December	6	2.00 p.m. Council Pre-Meeting		2.00 p.m. Council	10.00 a.m. Integration Joint Board	
19 December				Winter Recess		
26 December						

### Not included:

- Education Appeals (ad hoc)
- Staffing and Recruitment (ad hoc)
- Local Development Plan Committee (ad hoc)
- Council (Planning) (ad hoc)
- 1<sup>st</sup> Tier Joint Consultative Committee

## NORTH AYRSHIRE COUNCIL

18 May 2022

### North Ayrshire Council

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**Title:** **Appointments to Committees**

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**Purpose:** To seek the appointment of Members and, where appropriate, lay representatives, to committees of the Council in accordance with the Scheme of Administration, including consideration of the appointment of Chairs (and, where appropriate, Vice Chairs).

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**Recommendation:** That the Council agrees:

- (a) to note that all Elected Members are automatically members of the full Council and the Local Development Plan Committee;
- (b) to note that all Elected Members are members of the Locality Partnership which covers their respective ward;
- (c) to approve the appointment of Chairs (and, where appropriate, Vice Chairs) of committees of the Council;
- (d) to approve nominations to the Audit and Scrutiny Committee, the Cabinet, Education Appeal Committee, Licensing Committee, Local Review Body, North Ayrshire Integration Joint Board, Planning Committee, Police and Fire and Rescue Committee and Staffing and Recruitment Committee;
- (e) to agree the following arrangements for the appointment to the Cabinet of additional Members when it considers Education Authority business:

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- (i) to appoint Ms Elizabeth Turbet and Mr Andrew Bruce as the Roman Catholic Church and Church of Scotland representatives, respectively;
  - (ii) to issue a public notice seeking nominations from church or denominational groups to fill the third Church representative position;
  - (iii) to approve the appointment of Ms Jacqui MacKenzie as the non-voting representative, nominated by the Local Negotiating Committee for Teachers;
  - (iv) to appoint two non-voting representatives, to be drawn from a pool of Youth Council members on a meeting-by-meeting basis; and
  - (v) to remit to Cabinet to agree such appointments
- (f) to approve the appointment of lay representatives to the Education Appeal Committee, as referred to in Section 2.10 below.
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## **1. Executive Summary**

- 1.1 This report sets out the committee vacancies which require to be filled in terms of the Council's Scheme of Administration, and invites the Council to approve appointments.

## **2. Background**

- 2.1 The Council's Scheme of Administration, which is presented for the Council's approval elsewhere on the Agenda, provides for the establishment, terms of reference, and constitution of the Council and its committees. It also provides that all Chair and Vice Chair appointments should be made by the full Council; that the Leader and Depute Leader of the Council will fill the positions of Chair and Vice Chair of the Cabinet; and that the Leader of the Council will Chair the Staffing and Recruitment Committee.
- 2.2 In terms of the Scheme of Administration, all Elected Members will automatically become members of the full Council and the Local Development Plan Committee. All Members are also members of the Locality Partnership for their respective area. There are six Locality Partnerships across North Ayrshire (i.e. Arran, Garnock Valley, Irvine, Kilwinning, North Coast and the Three Towns).
- 2.3 Members of the Staffing and Recruitment Committee/their named substitutes are automatically members of the Council's First Tier Joint Consultative Committee. Staffing and Recruitment Members and Named Substitutes are also automatically appointed to the membership pool for the Appeals Committee.

### Committees

- 2.4 The Scheme of Administration details the composition of each committee and sets out the number of members to be appointed by the Administration, the main Opposition (being the largest party not forming part of the Council Administration), the second Opposition group and Independent Members. Nominations require to be sought for the following:

- Audit and Scrutiny Committee
- Ayrshire Regional Economic Joint Committee and Partnership Board
- Ayrshire Shared Services Joint Committee
- Cabinet
- Education Appeal Committee (membership pool)
- Licensing Committee
- Local Review Body
- North Ayrshire Integration Joint Board
- Planning Committee
- Police and Fire and Rescue Committee
- Staffing and Recruitment Committee

2.5 In the event that the Administration and Opposition do not fill all of the committee vacancies which they are entitled to fill in terms of the Scheme of Administration, it is recommended that Council agree that they can do so by intimating appointments to the Chief Executive. This is in line with the provision in the Scheme of Administration which provides that, on resignation of one of their nominees from a Committee, a Political Group can appoint a replacement.

#### Chair and Vice Chair

2.6 Nominations are also sought in respect of the Chair (and Vice Chair, if applicable) position on each of the committees established by the Council in the Scheme of Administration. These positions are to be filled from among the Members appointed to each committee and will run for the duration of the Administration.

#### Lay Representatives on Cabinet

2.7 The Scheme of Administration provides for the following additional members of Cabinet which it meets to consider Education Authority business:

- (a) as voting members, three persons interested in the promotion of religious education, appointed in accordance with Section 124 of the Local Government (Scotland) Act 1973, as amended by Section 31 of the Local Government Etc. (Scotland) Act 1994, and as detailed in Annexation A to the Scheme of Administration; and
- (b) as non-voting members, (i) a representative of the professional teaching associations nominated by the Local Negotiating Committee for Teachers, and (ii) two pupils representatives, being members of the Youth Council

2.8 The Church representatives referred to above are specified in Section 124(4) of the Local Government (Scotland) Act 1973 as:

- (a) one representative of the Church of Scotland, nominated in such a manner as may be determined by the General Assembly of the Church;
- (b) in the case of the education authority for each area, one representative of the Roman Catholic Church, nominated in such a manner as may be determined by the Scottish Hierarchy of the Church; and
- (c) one person in the selection of whom the authority shall have regard (taking account of the representation of churches under paragraphs (a) and (b) above to the comparative strength within their area of all the churches and denominational bodies having duly constituted charges or other regularly appointed places of worship there.

2.9 The Church of Scotland and Roman Catholic Church have nominated Mr Andrew Bruce and Ms Elizabeth Turbet to continue to serve as their representatives, respectively. A public advertisement is proposed to invite nominations for the third Church representative, albeit that the current representative, Mr Ian Haining, has also intimated a willingness to continue in the role.

#### Education Appeal Committee Lay Representatives

2.10 The Education Appeal Committee, in addition to comprising a pool of Elected Members from which one is drawn for each hearing, also has a pool of lay representatives, two of whom sit on each hearing. The following experienced individuals have previously served on the committee and have indicated a willingness to continue in the role:

Val Gibson  
Gloria Killin  
Jim Smith  
Ann Smyth  
Karen Wallace (available to serve from June 2022)

### **3. Proposals**

3.1 The Council is invited:

- (a) to note that all Elected Members are automatically members of the full Council and the Local Development Plan Committee;
- (b) to note that all Elected Members are members of the Locality Partnership which covers their respective ward;
- (c) to approve the appointment of Chairs (and, where appropriate, Vice Chairs) of committees of the Council;

- (d) to approve nominations to the Audit and Scrutiny Committee, the Cabinet, Education Appeal Committee, Licensing Committee, Local Review Body, North Ayrshire Integration Joint Board, Planning Committee, Police and Fire and Rescue Committee and Staffing and Recruitment Committee;
- (e) to agree the following arrangements for the appointment to the Cabinet of additional Members when it considers Education Authority business:
  - (i) to appoint Ms Elizabeth Turbet and Mr Andrew Bruce as the Roman Catholic Church and Church of Scotland representatives, respectively
  - (ii) to issue a public notice seeking nominations from church or denominational groups to fill the third Church representative position
  - (iii) to approve the appointment of Ms Jacqui MacKenzie as the non-voting representative, nominated by the Local Negotiating Committee for Teachers
  - (iv) to appoint two non-voting representatives, to be drawn from a pool of Youth Council members on a meeting-by-meeting basis; and
  - (v) to remit to Cabinet to agree such appointments; and
- (f) to approve the appointment of lay representatives to the Education Appeal Committee, as referred to in Section 2.10

#### **4. Implications/Socio-economic Duty**

##### **Financial**

4.1 None arising from the recommendations of this report.

##### **Human Resources**

4.2 None arising from the recommendations of this report.

##### **Legal**

4.3 None arising from the recommendations of this report.

##### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

##### **Climate Change and Carbon**

4.5 None arising from the recommendations of this report.

##### **Key Priorities**

4.6 None arising from the recommendations of this report.

##### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

## **5. Consultation**

5.1 Political Groups are being consulted in terms of their nominations.

Craig Hatton  
Chief Executive

For further information please contact **Melanie Anderson, Senior Manager (Committee and Member Services)**, on **01294 324131**

### **Background Papers**

None

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**NORTH AYRSHIRE COUNCIL**

**18 May 2022**

**North Ayrshire Council**

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**Title:** **Appointments to Outside Bodies**

**Purpose:** To advise the Council of a number of potential appointments to outside bodies and to invite nominations to fill Elected Member positions.

**Recommendation:** That the Council agrees:

- (a) to elect Members to serve on the North Ayrshire Licensing Board;
- (b) to appoint Elected Members to represent the Council on the outside bodies listed at Appendix 1; and
- (c) that the Chief Executive exercise delegated authority to make any officer appropriate officer appoints to outside bodies and to identify such lead officers as might be required to support Elected Members in their role on key outside bodies.

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**1. Executive Summary**

1.1 North Ayrshire Council is requested to make appointments to a range of outside bodies. This report invites the Council to appoint Elected Members to serve. It is proposed that the Chief Executive exercise delegated power in relation to officer appointments to outside bodies and the appointment of lead officers to support Members.

**2. Background**

2.1 The Council appoints Elected Members to represent it on a wide range of outside bodies, both at national and local level. Such appointments ensure that the Council's interests and, therefore, the interests of the people of North Ayrshire, are represented on key bodies.

2.2 In terms of the Council's draft Scheme of Administration, which is presented for approval elsewhere on the Agenda, all Elected Member appointments to outside bodies are approved by the Council. A list of all Outside Bodies for which Elected Member nominations are requested, is set out at Appendix 1.

2.3 Where Members or Officers are appointed to an outside body, it is important to note that their primary duty when serving will be to promote the interests of that body. Where a conflict of interest arises between the interests of the body and the Council, a Member may need to declare a conflict of interest. Where a Member serves on a Limited Company, Charity or Partnership, further specific legal duties also arise. Training in these duties will be provided as required. Members serving on such bodies will also be supported by Lead Officers.

### **3. Proposals**

3.1 The Council is invited:

- (a) to elect Members to serve on the North Ayrshire Licensing Board;
- (b) to appoint Elected Members to represent the Council on the outside bodies listed at Appendix 1; and
- (c) that the Chief Executive exercise delegated authority to make any officer appropriate officer appoints to outside bodies and to identify such lead officers as might be required to support Elected Members in their role on key outside bodies.

### **4. Implications/Socio-economic Duty**

#### **Financial**

4.1 The Council will meet the cost of officer and Member attendance at outside body meetings.

#### **Human Resources**

4.2 Support for Elected Members in their role as Council representatives on outside bodies will be met by relevant Services from existing staff resources.

#### **Legal**

4.3 Members and Officers serving on outside bodies, particularly companies or charities, are subject to specific legal duties. The most important duty is that Members, when serving on that body, require to promote the interest and objects of that body. Members are not appointed to promote the interests of the Council. Where a conflict arises between the interests of the body and the Council, and Members cannot in all conscience act in the interests of the outside body, then they will need to declare a conflict of interest and take no part in the particular decision.

The Councillors' Code of Conduct contains a dispensation which allows Councillors who serve on outside bodies to take part in Council decisions relating to that body. This still requires the Member to declare their interest and cannot be used where the outside body is making a planning or other regulatory application to the Council.

#### **Equality/Socio-economic**

4.4 None arising from the recommendations of this report.

### **Climate Change and Carbon**

4.5 Relevant outside body appointments can support the Council's interest in terms of the environment and sustainability.

### **Key Priorities**

4.6 Relevant outside body appointments support partnership working, which in turn promotes all of the Council's key priorities.

### **Community Wealth Building**

4.7 None arising from the recommendations of this report.

## **5. Consultation**

5.1 Group Leaders and Independent Members are being invited to submit nominations.

Craig Hatton  
Chief Executive

For further information please contact **Melanie Anderson, Senior Manager (Committee and Member Services)**, on **01294 324131**

### **Background Papers**

Correspondence with outside bodies

## Requested Representation: Elected Members

	Outside Body	No. of Appointees Requested	Substitute(s)	Notes
1	APSE Scottish Commercialisation Advisory Group	1	1	Place Cabinet Member (or equivalent)
2	Arran Access Trust	1	N/A	Ward 4 Member
3	Arran Ferry Committee	1	N/A	Ward 4 Member
4	Ayrshire Area Support Team	1	N/A	Health and Social Care Cabinet Member (or equivalent)
5	Ayrshire Valuation Joint Board	6	optional	
6	Clyde, Kintyre and Islands Ferry Stakeholder Group (formerly Clyde Ferry Users Group)	2	optional	Ward 4 or Ward 1 Member
7	Clyde Local Liaison Committee	1	1	
8	Community Justice Ayrshire Committee	1	1	
9	Community Planning Partnership Board	7	N/A	6 Locality Partnership Chairs IJB Chair
10	Convention of the Highlands and Islands	1	N/A	Leader of the Council
11	CPP Safer North Ayrshire Partnership	1	1	Place Cabinet Member (or equivalent)
12	Corporate Equality Group (NAC Group)	3	N/A	Politically representative – 1 from each of the three largest political groups

13	COSLA Convention	4	N/A	Politically representative - May be Leader of the Council Depute Leader of the Council Leader of the Main Opposition Leader of the next largest political group
14	COSLA Community Wellbeing Board	1	N/A	Participatory Democracy Cabinet Member (or equivalent)
15	COSLA Children and Young People Board	1	N/A	Education Cabinet Member (or equivalent)
16	COSLA Environment and Economy Board	1	N/A	Place Cabinet Member (or equivalent)
17	COSLA Health and Social Care Board	1	N/A	Health and Social Care Cabinet Member (or equivalent)
18	COSLA Leaders Group	1	Optional	Leader of the Council
19	Cross-Party Group on Armed Forces and Veterans Community	1		Veterans Champion (or equivalent)
20	Cunninghame Housing Association	1	N/A	Place Cabinet Member (or equivalent)
21	Dalgarven Mill Trust	1	N/A	Ward 2 Member
22	Flood Risk Local Plan District Steering Group (Ayrshire)	1	N/A	Place Cabinet Member (or equivalent)
23	Haylie House Board of Trustees	1	N/A	Ward 1 Member
24	Highland and Islands Regional Economic Partnership	1	1	Place Cabinet Member (or equivalent)
25	Highlands and Islands Territorial Committee	1		Economy Cabinet Member (or equivalent)
26	Hunterston Marine Yard Liaison Group	2	N/A	Ward 1 Members
27	Hunterston Site Stakeholders Group	5	N/A	Ward 1 Members
28	Industrial Communities Alliance	2	Optional	
29	Kilbirnie Loch Management Committee	1	N/A	Ward 2 Member
30	Lowland Reserve Forces and Cadets Association	1	Optional	Veterans Champion (or equivalent)
31	National Association of Councillors	1	1	

32	NHS Ayrshire and Arran Board (as Non-Executive Stakeholder member of the NHS Board)	1	N/A	Usually the Leader of the Council (This nomination requires to be submitted by NHS Ayrshire and Arran to the Cabinet Minister for Health, for approval)
33	North Ayrshire Carers Strategy Advisory Group	1	1	Health and Social Care Cabinet Member (or equivalent)
34	North Ayrshire Leisure Limited	4	N/A	
35	North Ayrshire Outdoor Access Forum	1	1	
36	North Ayrshire Ventures Trust	2	N/A	
37	Scotland Excel Joint Committ	1	1	Finance Cabinet Member (or equivalent)
38	Scottish Councils Committee on Radioactive Substances	1	N/A	
39	Spiers Trust Committee	5	N/A	Ward 2 Members
40	Strathclyde Concessionary Travel Scheme Joint Committee	1	1	
41	Strathclyde Partnership for Transport	1	1	Place Cabinet Member (or equivalent)
42	West of Scotland Archaeology Joint Committee	1	1	
43	West of Scotland European Forum	1	1	