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## NORTH AYRSHIRE COUNCIL

16 December 2020

### North Ayrshire Council

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**Title:** Annual Review of Governance Documentation

**Purpose:** To review the key Governance documentation regulating the operation of Council, its Committees and Officers.

**Recommendation:** To review and approve with effect from 1 January 2021 the revised versions of (1) Standing Orders for Meetings and Proceedings of the Council attached at Appendix 1; (2) the Scheme of Administration attached at Appendix 2; (3) the Scheme of Delegation to Officers attached at Appendix 3, (the delegation to the Head of Democratic Services contained at para 53(d) on page 19 of the Scheme of Delegation to come into effect immediately); and (4) the Financial Regulations attached at Appendix 4

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## 1. Executive Summary

1.1 This report suggests revisals to the key governance documents which regulate the operation of Council, its Committees and Officers. The key governance documents comprise the following: -

- Standing Orders relating to Meetings and Proceedings
- Scheme of Administration
- Scheme of Delegation to Officers
- Guidelines on Member Officer Relations
- Standing Orders for Contracts
- Financial Regulations

## 2. Background

2.1 Audit Scotland in their report "Roles and Working Relationships- Are you Getting it Right" stress 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 lead to sound decision making. The key governance documents were adopted by Council on 17 May 2017, reviewed by Council on 28 June 2018 and 25 September 2019 and since then have been the subject of other changes as required. While the Council's Best Value Audit in June 2020 stated that the Council's decision-making structures were effective, the opportunity has again been taken to review the core governance documents.

2.2 Since last reviewed in September 2019, the key governance documents have been subject to the following additional changes:

- Standing Orders for Meetings- to enable remote or hybrid meetings to take place during the current pandemic, on 3 April 2020 and 3 June 2020 the Chief Executive exercised urgency powers to make changes to Standing Orders. These changes were reported to Cabinet on 30 June 2020;
- Standing Orders for Contracts- on September 2020 Council agreed revisals to this document;
- Scheme of Delegation to Officers and Financial Regulations- on September 2020 Council agreed to appoint the Head of Service (Finance) as the Section 95 Financial Officer, to appoint a Chief Planning Officer, and to the split of responsibilities of the former post of Executive Director (Finance and Customer Services) between the Heads of Service of Finance, People and ICT and Recovery and Renewal.

### **Standing Orders**

2.3 The Standing Orders for Meetings set out the rules for decision taking and define how a Council and its committees conduct their business democratically. The main revisals which have been made in comparison to the previous Standing Orders are:

- To enable remote or hybrid meetings to take place, both during the current pandemic and thereafter;
- To clarify that no additional 2-minute preamble is permitted for a supplementary question;
- 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 have 10 minutes to speak to it, rather than the usual 5 minutes;
- To embed an emergency provision as follows:—"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.";
- Other changes are minor, either for clarification or to deal with typos.

## **Scheme of Administration**

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. The main revisals which have been made in comparison with the previous Scheme of Administration are:

- Reservations to Council and remit of the Planning Committee- To reflect changes introduced by the Planning (Scotland) Act 2019, that major applications are no longer delegated to Council. Instead these would be determined by the Planning Committee;
- Appeals Committee-To remove the requirement that one of the Members of an Appeals Committee must be a Member of the Staffing and Recruitment Committee. In practice this was often difficult to achieve;
- To change the functions delegated to the Ayrshire Regional Economic Partnership, to reflect those now detailed in the signed Ayrshire Growth Deal Document. The changes largely relate to the fact that gateway reviews are no longer required;
- Other changes are minor, either for clarification or to deal with typos.

## **Scheme of Delegation to Officers**

2.5 The Scheme of Delegation to Officers lists the functions delegated to senior officers. In turn those officers can delegate these functions to other officers within their services. 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 from policy or procedure. The only exception to this is in the case of urgency, which power had to be utilised during the current pandemic.

2.6 The main revisals which have been made in comparison with the previous Scheme of Delegation to Officers are: -

- To reflect the decision of Council on 23 September 2020 to agree that delegations to the former Executive Director (Finance and Corporate Support), are distributed as follows: -
- To the Head of Service (Finance) – the functions of Finance, Treasury Management, Procurement, Revenue, Health and Safety, Insurance, and Audit
- To the Head of Service (People & ICT) -the functions of People Services, ICT, Customer Services, Benefits and Council Tax
- To the Head of Service (Recovery and Renewal)- The functions of Transformational Change, Risk and Business Continuity
- To reflect the changes agreed to Contract Standing Orders by Council on 23 September 2020;

- To provide that if during a public health emergency, the Appeals Committee is unable to meet, appeals can be handled by senior officers providing the full requirements of natural justice (fair hearing etc) are complied with;
- To delegate the emergency provision detailed in the fourth bullet point of paragraph 2.3 in relation to all the governance documents;
- To make it clear that if the Chief Executive requires to move the location of a polling place as a matter of urgency, whether due to the pandemic, fire or other emergency, then he has power to do so;
- To provide that if during a public health emergency, the Licensing Committee is unable to meet, the Head of Democratic Services has power to determine or vary certain non-liquor licences;
- To provide, after consultation with the Chief Constable, for the grant of an Exemption Certificate from the requirement to hold a late-hours catering licence, in respect of any particular occasion; or during a period not exceeding 2 months. To allow determination of an application for Xmas trading lodged after the Licensing Committee meeting on 9 December, it is recommended this comes into effect immediately;
- To give the Head of Service (Finance) power, in consultation with the Executive Director (Communities) to award 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. This is to avoid the capital of smaller funds remaining unused and gradually expended on external audit fees, rather than the trust purposes;
- To reflect the imminent replacement of European Regional Funds by the Shared Prosperity Fund or other arrangements;
- Other changes are minor, either for clarification or to deal with typos.

## **Financial Regulation**

2.7 Financial Regulations have been amended as follows:

- To reflect the change in the Section 95 Financial Officer approved by Council in September 2020;
- To delete an outdated reference to the Code of Practice for Funding of External Organisations, which now forms part of the Code of Corporate Governance.

## **Guidelines on Member Officer Relations**

2.8 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. They incorporate the Model Protocol for Relations between Councillors and Employees which comprises Appendix C of the Councillors Code of Conduct. These have been reviewed and no changes are proposed. Separately, it is worth noting that the Standards Commission for Scotland are currently consulting on proposed changes to the Councillors' Code of Conduct.

### **3. Proposals**

- 3.1 It is recommended that Council review and approve with effect from 1 January 2021, the revised 1) Standing Orders for Meetings and Proceedings of the Council attached at Appendix 1; (2) the Scheme of Administration attached at Appendix 2; (3) the Scheme of Delegation to Officers attached at Appendix 3 (the delegation to the Head of Democratic Services contained at para 53(d) on page 19 of the Scheme of Delegation to come into effect immediately); and (4) and the Financial Regulations attached at Appendix 4.

### **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.

#### **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.

#### **Environmental and Sustainability**

- 4.5 None.

#### **Key Priorities**

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

#### **Community Wealth Building**

- 4.7 Further references to Community Wealth Building have been included in the Schemes of Administration and Delegation

### **5. Consultation**

- 5.1 Many of the changes, particularly those in Standing Orders, were the subject of consultation with Group Leaders as part of the Chief Executive's exercise of 'urgency' powers during the pandemic. These have been reported to Cabinet.

**Craig Hatton**  
**Chief Executive**

For further information please contact Andrew Fraser, Head of Democratic Services,  
on 01294 324125.

**Background Papers**

N/A



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

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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. Part 4 of Schedule 6 of the Coronavirus (Scotland) Act 2020 contains temporary modifications of the Local Government (Scotland) Act 1973 in relation to (a) the grounds for the exclusion of the public from meetings of local authorities and (b) the provision of copies of documents in respect of meetings of local authorities. The former includes a provision that "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."
3. 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.
- 12 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 Deputy 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 Deputy 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**

- 21 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.

22 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. 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.

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

31 Special meetings of Council may be convened under the following circumstances: -

- i. A Special Meeting may be called at any time by decision of the Council
- ii. Urgent Items
- iii. By Requisition

32 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.

33 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.

34 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 eight 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. Notice of Meetings**

4.1 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

- 42 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.
- 43 The validity of any meeting of the Council shall not be affected by the failure of any Member to receive notice of a meeting.

### **5. Provost and Depute Provost**

#### Election and Terms of Office

- 51 The Council will elect a Convener and Depute Convener from its Membership, to be known as 'Provost' and 'Depute Provost' respectively.
- 52 The terms of office of the Provost and Depute Provost shall 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.
- 53 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.
- 54 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.

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

- 55 At a meeting of the Council, the Provost or in his/her absence the Depute Provost, which failing such other Member as the meeting may decide, shall preside, whether in person or through remote access.
- 56 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.

57 It shall be the duty of the Provost to:

- Preserve order and ensure fairness in debate;
- Decide all matters of order, competency and relevancy;
- Ensure that Standing Orders are observed;
- Determine any questions of procedure for which no express provision has been made in these Standing Orders;
- 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;
- 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
- Decide whether to have a recess during a meeting.

58 The decision of the Provost on all matters within his/her powers shall be final and shall not be open to question or discussion.

## **6. Suspension of Members**

6.1 In the event of any Member disregarding the authority of the Provost or obstructing the meeting or conducting him/herself offensively 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.

## **7. Appointment and Removal of Members**

7.1 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, faxed 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.

7.2 Where any appointed or nominated Member is a Member of a political group within the Council, then where such member 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.

73 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.

## **8. Quorum**

81 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.

82 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.

83 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.

84 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.

## **9. Order of Business**

91 At all meetings of the Council other than the meeting held in accordance with Standing Order 1.2 above, 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 motion;
- 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;
- xvii. Appointment to Committees, Joint Committees, Joint Boards or outsidebodies
- xviii. Any business as per the agenda
- xix. Questions;
- xx. Motions.

- 92 Items 9.1 vii, viii, xi, xv, xvi, xvii, xix and xx shall be business for Council meetings only, not for any Committee.
- 93 No item will be removed from the agenda unless with the agreement of all Members present.
- 94 The Provost at any meetings of the Council may alter the order of business to facilitate the conduct of the meeting.

#### Urgent Items

- 95 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

- 96 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

- 97 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.

### **10. Declarations of Interest**

- 10.1 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.

- 102 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.
- 103 All Members of the Council must observe the Code of Conduct for Councillors and any guidance issued by the Standards Commission for Scotland.

## **11. Public Access to Meetings**

- 11.1 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. The press and public are to be excluded from a meeting of a local authority whenever it is likely that, if members of the public or press were present, there would be a real and substantial risk to public health due to infection or contamination with coronavirus.
- 11.2 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.
- 11.3 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 5.7 hereof.

## **12. Questions**

### Questions submitted in advance of a meeting

- 121 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, faxed or e-mailed to the Chief Executive not later than 2.00 p.m. on the Monday of the week preceding the meeting.
- 122 A Member asking a question or supplementary question or responding thereto shall have a maximum of 3 minutes to deliver their question or answer. This is in addition to the 2-minute preamble referred to in Standing Order 12.4.
- 123 Questions contravening legislation. If notice is given of any question that, in the opinion of the Solicitor to the Council, is likely to be illegal, defamatory or in breach of Data Protection principles, 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.

- 124 No discussion shall be competent on any questions so intimated, but the Member asking the question will be permitted a maximum 2-minute preamble to set the context of the question. The Provost may at his or her discretion allow a supplementary question arising out of the answer given to the original question. No preamble is permitted for the supplementary question.
- 125 Such questions may be directed to the Leader of the Council, any Cabinet Member, the Chair of any Committee, the Leader of the Opposition or Council representatives on Outside Bodies. Such questions shall relate to the functions of such office holder or member. It will be competent for any Member of the Council to move a question of which the requisite notice has been given.

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

- 126 As Members have the opportunity to submit Congratulatory Motions in terms of Standing Order 13.3, 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.
- 127 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.
- 128 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.
- 129 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

- 1210 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.
- 1211 The decision of the Provost on a Question of Order will be final. 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.

### **13. Motions**

#### Notices of Motion

- 131 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.
- 132 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 relevant to the item under consideration. For meetings of North Ayrshire Council only, such motion or amendment shall be displayed at the meeting.
- 133 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 9.1 (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.

#### Motions arising from requests from Outside Bodies

- 134 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 13.1 shall apply equally in such circumstances.
- 135 If notice is given of any motion or amendment that, in the opinion of the Solicitor to the Council is illegal or if agreed 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 or approved by or under any enactment, the Solicitor to the Council shall immediately submit such notice of motion or amendment 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 motion or amendment

#### **14. Procedure Prior to Debate**

- 14.1 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 9.1 (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.
- 14.2 All motions and amendments must be directly relevant to the item of business under consideration. The Provost shall have the authority to rule out of order any motion or amendment which he/she may consider irrelevant, or any amendment which is substantially the same as the motion or another amendment.
- 14.3 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.
- 14.4 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.
- 14.5 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.
- 14.6 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.
- 14.7 As detailed in Standing Order 12.7, 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 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.

## 15. Debate

- 151 There shall be no debate unless there is a motion and amendment both of which are seconded.
- 152 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.
- 153 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 6;
  - to adjourn the debate in terms of Standing Order 5.7 or 16.1; or
  - to close the debate in terms of Standing Order 16.2
- 154 Once in debate, no question will be asked except in the following circumstances:
- a question of order in terms of Standing Order 12.10;
  - with the agreement of the Provost
- 155 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.
- 156 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.
- 157 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.
- 158 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.

159 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.

It should be noted that Officers should be treated in accordance with the Protocol for Member/Officer relations.

## **16 Procedural Motions**

161 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 9 it will commence at the point at which it was broken off at the adjournment.

162 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.

## **17. Voting**

171 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 Order 23.

172 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.

173 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.

- 174 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.
- 175 Where there is more than one amendment, and two thirds of the members present and voting so decide, Council may adopt the following alternative procedure to that detailed in Standing Order 17.3 hereof:- 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 15.3. Except as required to give effect to this paragraph, all remaining provisions of Standing Orders shall remain in full force and effect.

#### Casting Vote

- 176 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

- 177 Voting shall normally be by a show of hands but at the Council Meeting 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, 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

- 178 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.

### **18. Voting on Appointment of Members**

- 181 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.

182 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.

## **19. Disclosure of Information**

191 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.

192 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.

193 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.

194 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.

## **20. Appointment of Executive Directors**

20.1 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.

## **21. Suspension of Standing Orders**

21.1 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).

212 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).

213 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.

## **22. Variation and Revocation of Standing Orders**

221 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.

222 Any motion to revoke or vary these Standing Orders will, when voted on, be approved by a majority of the Members present and voting.

223 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.

## **23. Rescinding/Revocation of Previous Decision/Resolution**

23.1 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 21 above; or
- i. 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.

- i. 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.

For the avoidance of doubt this Standing Order does not apply to Questions raised under Standing Order 12. No such Question shall require the suspension of Standing Orders in order to be considered or reconsidered.

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

#### **24. Decisions of Cabinet: Call-In Process**

- 24.1 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.
- 24.2 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.
- 24.3 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.
- 24.4 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.
- 24.5 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.

- 246 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.
- 247 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.
- 248 In the event of the matter being referred to the full Council, the decision of the full Council shall be final and binding.

## **25. Discharge of Functions by Committees and Officers**

### Scheme of Administration for Committees

- 25.1 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.
- 25.2 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.
- 25.3 In the event that any Group does not appoint to any committee the number of Councillors they are entitled to appoint, Council may appoint any other Member to fill such a vacancy or vacancies.

### Working Groups

- 25.4 The Council and its Committees may establish any working group 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.
- 25.5 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.
- 25.6 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.
- 25.7 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

258 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.

### **26. Proceedings of Committees and Sub-Committees**

261 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.

Notwithstanding the foregoing, Council may, if it considers it appropriate for 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 recommendations to the Board.

- iii. 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.
- iv. 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.

262 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.

### 263 Planning Committee Call-in

- 26.3.1 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.
- 26.3.2 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 26.3.1, 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.
- 26.3.3 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 determine the application or decide not to determine the application, leaving officers to determine the application under delegated powers.

## **27. Approval and Signing of Minutes**

- 27.1 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 24.1, Officers may implement any decision made within the delegated powers of such Committees immediately after the meeting.
- 27.2 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 24) Officers will be able to implement any decisions contained within the Minutes.
- 27.3 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 motion.

## **28. Petitions and Deputations**

- 28.1 Every application for the reception of a deputation or petition 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.
- 28.2 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 9.5.

## **29. Contract Standing Orders and Financial Regulations**

- 29.1 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.
- 29.2 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.
- 29.3 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.

### **30. Ultimate Power of the Council**

30.1 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.

### **31. Definitions**

31.1 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. "Vice-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.

312 Emails from Elected Members to the Chief Executive in respect of Standing Orders 12, 13 24 and 26 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 Wednesday 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 24.2 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</b> (Please specify the Minute reference)	
<b>Reasons for Call In</b> (Please specify your reasons for requesting that the Audit and Scrutiny Committee call in the decision)	
<b>Desired Outcome</b> (Please specify your desired outcome)	

**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 Relating to Proceedings of the Council and Committees	
Last Revised:	Revised By	Nature of Revision
May 2017	MJA	Standing Orders approved by Council
May 2018	MJA	Para 2 amended by Council to change the frequency of Council meetings from 8-weekly to 6- weekly.
June 2018	MJA	Revised Standing Orders agreed at Council meeting on 27 June 2018:- 9 - Order of Business aligned with order in which items appear on the Council agenda; 12.4 - A time limit of 3 minutes for questions, supplementary questions and responses 13.2 and 14.4 - Motions and amendments for Council to be recorded 26.3 - The Call-in procedure for planning applications included Appendix B Deputations and Petitions- additional exceptions added in 2.4 relating to a) functions delegated to the Integration Joint Board; b) where the request seeks to review a decision taken within the last 6 months; or c) seeks to review a matter which has already been reviewed by the Audit and Scrutiny Committee through the Call-in process.
Nov 2018	MJA	Changes as per decision of Council of 7 November 2018 following the recommendations of a Short Life Member Working Group on Questions and Motions. Changes relates to congratulatory questions and motions, and voting arrangements.
March 2019	MJA	New 12.9 added re factually correct questions. Agreed by Council at its meeting on 27 March 2019.
25 Sep 2019	MJA	Council agreed to: <ul style="list-style-type: none"> <li>• extend notice period for questions and motions to the 2.00 p.m. on the Monday of the week prior to Council;</li> <li>• allow the Provost to change the start time to 1.00 p.m. due to volume of business or weather conditions;</li> <li>• provide a 10-minute time limit for Members speaking in support of a call-in and the same limit for the portfolio-holder in responding</li> <li>• clarify for petitions the expectation that petitioners will have made previous attempts to resolve the issue including use of the complaints scheme</li> </ul>
7 April 2020	AL	Formatting of document standardised
12 June 2020	MJA	Amendments made in light of COVID-19 pandemic – approved under emergency delegated approval by the Chief Executive.
Dec 2020	AF	Annual Review- version 1.2



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.

“Opposition” means the 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 Council may from time to time appoint such other Committees, Sub Committees etc., and/or Working Parties with such constitution, quorum, terms of reference and delegated powers as the Council may decide.

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 and Cumbraes. 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 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 (one male and one female, where possible) 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. Advising and making recommendations to the Council on the determination of appropriate levels of council tax each year;
23. The preparation, review and amendment of regulations and arrangements for the proper administration of the Council's financial affairs;
24. Ensuring that Heads of Service maintain effective controls within financial procedures operated within their Services;
25. Performance reporting relating to the borrowing of money by the Council and treasury management;
26. Performance reporting relating to the investment of any funds including trust, common good and pension funds under the control or direction of the Council;
27. Policy and strategy relating to the Council's portfolio of insurance policies;
28. 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;
29. 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;
30. 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;
31. Consideration of tenders in excess of £1m. or such revised sum as may be detailed in Financial Regulations of the Council or Contract Standing Orders except where forming part of a previously agreed framework agreement;
32. Policy and strategy relating to the Scottish Welfare Fund, Housing Benefit and Universal Credit;

#### D. Property, Accommodation and Staffing

33. 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;
34. Providing advice and making recommendations to the Council on the level of rents for Council dwelling houses;
35. 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
36. Except where reserved to Council as part of approval of the Capital Plan, the approval of acquisitions of land and buildings;
37. Policy and strategy relating to energy management in all properties owned or used by the Council;
38. The assessment and determination of housing needs;
39. The approval, amendment or replacement of a local housing strategy and Strategic Housing Investment Plan (SHIP);
40. 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;
41. 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;
42. Oversight of use of powers under the Regulation of Investigatory Powers (Scotland) Act;
43. The development and monitoring of policies relating to equalities;

#### E. Digital

44. Approval of the Council's Digital and Information Strategies;
45. Policy and strategy relating to the Information Technology requirements of the Council;

#### F. Education

46. Consideration or alteration within the policy framework established by the Council of policy objectives and priorities in relation to Education;
47. 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

- 48. 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;
- 49. All matters relating to the Council's involvement in the provision of national and local youth and adult training schemes;
- 50. Policy and strategy with regard to social, educational, cultural, recreational and community-based activities;
- 51. Determination of community asset transfer requests under either the Council's Community Asset Transfer Scheme or the Community Empowerment (Scotland) Act 2015;
- 52. All matters relating to the administration of bursaries;
- 53. Approval of the Council's Communications Strategy;
- 54. 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;
- 55. The arrangement of civic hospitality and other receptions;
- 56. The level of annual funding to be provided to Community Councils;
- 57. Determining applications for financial assistance from outside bodies, unless delegated to another Committee;
- 58. Consideration of new legislation or consultation papers, except where the subject matter is within the remit of another Committee or delegated to Officers;
- 59. Policy and strategy relating to Civil Contingencies and Business Continuity;
- 60. Policy and strategy relating to Community and Locality Planning, including approval of the Locality Outcomes Improvement Plan and Locality Plans;
- 61. Policy and strategy relating to mental health functions excluded from delegation to the North Ayrshire Integration Joint Board.
- 62. 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.
- 63. 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 10 Members, namely the Chair and the three other Members of the Staffing and Recruitment Committee, or if unavailable their named substitutes from that Committee, plus another six Members. 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.

### **Chair**

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 employees against recruitment and selection at the final stage or internal candidates.

## SECTION 5: AUDIT AND SCRUTINY COMMITTEE

### Constitution

Seven 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 Group, and two others.

### 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 the 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 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, being: -

- (a) three representatives 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 (the current Chair to August 2018), 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 Opposition, and four other Members.

### **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.
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.

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

### **Constitution**

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

### **Chair**

The Economic Development 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 Planning Etc. (Scotland) Act 2006 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-C 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 Opposition, and four other Members.

### **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**

Seven Members of the Council comprising of three Members nominated by the Administration, two Members nominated by the Opposition, and two other Members. 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 and Cumbraes.

### **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 the draft Police and Fire and Rescue Plans for North Ayrshire and to make recommendations on the Plans to Council.
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 of the Council, a member of the Administration, the Leader and a member of the Opposition, a member of the Conservative and Unionist Group and a member of the Independents 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 Leader 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
June 2018	MJA	As set out in the report submitted to the Council on 27 June 2017
Nov 2018	MJA	Composition of Staffing and Recruitment Committee amended to include Conservative & Unionist and Independent representation.  Addition of Ayrshire Economic Joint Committee, as approved by the Council on 7 November 2018.
Sept 2019	MJA	Council agreed to <ul style="list-style-type: none"> <li>• Clarify that interim appointments of Chief Officers can be made by the Chief Executive.</li> <li>• Add new functions introduced by the Planning (Scotland) Act 2019.</li> <li>• Add general policy functions to the remit of Cabinet which recognise the development agenda of subsidiarity, of participation, and working with communities and partners</li> </ul>
20 April 2020	DMcC	Formatting of document standardised
25 November 2020	AL	Justification of text
2-12-20	AF	Draft revisals- Annual Governance Review



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

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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 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 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 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 Maximising Attendance Procedures, 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 for early release, to approve any application for voluntary early retirement, redundancy or early release.
- 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.

320 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 and Performance, Health Improvement and Equalities, Elections and Council Officers.
- **Communications**, both internal and external, marketing and Members Services
- **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 Head of Service (Physical Environment) 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

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.

### **Democratic Services**

62. Appoint suitable persons to the Panel of Safeguarders in terms of the Children (Scotland) Act 1995.
63. Revise periodically the fees payable to Safe guarders.
64. 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.
65. Act as Clerk to the Children's Panel Advisory Committee in terms of the Social Work (Scotland) Act 1968, as amended.
66. 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.

67. Adjust as necessary the calendar of meetings and holidays in consultation with the Provost and Leader of the Council, as appropriate.
68. To provide assistance to Councillors by provision of appropriate accommodation, secretarial assistance, training and library facilities etc.
69. 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.
70. In consultation with the appropriate Executive Director to submit comments to the Scottish Public Services Ombudsman and the Pensions Ombudsman into alleged maladministration.
71. 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.
72. To determine whether Petition or deputation requests comply with the requirements of Council Standing Orders.
73. To deal with all applications or requests relating to civic receptions, opening ceremonies and any other ceremony, subject to consultation with the Provost.
74. 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.
75. 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.
76. 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.
77. To provide such support and assistance as the Returning or Counting Officer may request in relation to elections, Business Improvement Districts or referenda.
78. 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.
79. To manage the Council's arrangements for town twinning, including visits to or by other towns or areas with which the Council is twinned.
80. To manage the booking of the Council Car.
81. Maintenance of the Register of Disclosure of Interests in terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000.
82. To support civic functions and festivals such as the Provost's Awards, Marymass, and the Viking Festival.

83. To provide support and assistance to Community Councils.
84. 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**

85. Support for the development of corporate policy for the Council,
86. Gathering and analysis of demographic, performance and other data relating to North Ayrshire, its neighbourhoods, and its partners.
87. 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.
88. 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.
89. To support and coordinate Council entries for awards.
90. 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.
91. Act as the Council's representative for functions of the Registrar General for Scotland as regards statistics and Census.
92. To support functions of the Council relating to health improvement of Council employees.
93. To develop policies and procedures and otherwise to help ensure the Council complies with its duties under the Equalities Act, the Fairer Scotland Duty and the island-proofing requirements of the Islands (Scotland) Act 2018.
94. To coordinate and support the development of the Child Poverty Report and Action Plan.

### **Communications**

95. To authorise the issue of all publicity and promotional material related to the Council.
96. To maintain good internal and external public relations.
97. 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.
98. To manage, maintain and make procedures relating to social media sites kept by the Council.

99. To deal with press enquiries and responses on behalf of the Council.
100. To authorise corporate branding material including logos etc to be used on behalf of the Council.
101. To undertake internal communications with Council employees and to provide policies to promote internal communication.
102. To produce marketing materials on behalf of the Council.
103. 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**

104. To undertake the Council's duties relating to records management, the Records Management Plan and to maintain and manage a records management store.
105. To provide support and assistance to services in responding to requests under the Freedom of Information (Scotland) Act 2002.
106. To provide support and assistance to Council services to enable them to comply with duties under the Data Protection Act 1998, and the General Data Protection Regulation and to assist them to deal with requests for the release of personal data.
107. To develop protocols for the filing and retention of Council information.
108. In consultation with the appropriate Executive Director to submit comments to the Scottish Public Services Ombudsman and the Pensions Ombudsman into alleged maladministration.
109. To manage the Council's Customer Complaints procedures
110. To determine reviews lodged under the Freedom of Information (Scotland) Act 2002.

### **Civil Contingencies**

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

### **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 (Internal Audit, Risk and Fraud) 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 13C.
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) 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.

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

The Head of Service (People and ICT) has overall responsibility for the functions of People Services, ICT, Customer Services, Benefits and Council Tax

### **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. To determine and issue school clothing grants

### **Benefits**

4. Ingather all monies due to the Council 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 consultation surveys.

## **ICT**

27. The provision of efficient and effective technology solutions including advice, appropriate to the needs of the Council and its departments.
28. To keep under review the provision of technology Systems to Council departments and the local community.
29. Monitoring the integrity, effectiveness and economic utilisation of all technology bases processing facilities.
30. Maintaining an inventory of hardware, software, application and telecommunications equipment for the purposes of insurance, hardware (preventative) maintenance, applications auditing, software licensing, asset management and technical support.
31. Authorise appropriate software licensing and other ICT Contracts.
32. In conjunction with relevant Chief Officers, develop, maintain and support policies and procedures relating to ICT Security and cyber-crime.
33. To ensure that all computer information processing conforms to the Data Protection Act 1998 and the General Data Protection Regulation.
34. To develop and implement the Council's Technology Strategy.

## **8. Head of Service (Recovery and Renewal)**

The Head of Service (Recovery and Renewal) has overall responsibility for the functions of Transformational Change, Risk and Business Continuity

### **Risk and Business Continuity**

1. Ensure adequate risk management arrangements are in place throughout the Council.
2. To exercise functions relating to the identification, planning and mitigation of risks affecting the Council.
3. 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**

4. To support service reform and manage and support transformational change throughout Council and its services in consultation with the relevant Executive Director.
5. To develop and implement the Council's Digital Strategy

## 9. Executive Director (Communities)

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

- **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; 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); 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), Asset Transfer (including the Allotments Policy); 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

1. To exercise the functions of the Council in terms of the following legislation and any subsequent or similar legislation or replacing or expanding legislation: -
  - 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
2. Manage the Educational Services Department and the provision of education in accordance with approved policy.
3. Accept and administer any new trusts or small endowments which may be offered to the Council for schools in their area.
4. Transfer teachers within the policy established by the Education Authority and, where appropriate, pay transfer expenses.

5. Exercise the discretionary powers available in implementation of conditions of service in relation to teachers in the employment of the Authority.
6. Carry out the administration, assessment and award of education maintenance allowances.
7. 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.
8. 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.
9. To approve support for any type of educational course and to make grants from any bursary or other financial scheme operated by the Council.
10. To make grants to employees and/or pupils in connection with courses, conferences, educational visits and excursions.
11. 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.
12. Exercise the powers available to the Council as Education Authority in relation to the exclusion of pupils from schools in line with policy.
13. Determine the dates of local school holidays within the Council after consultation.
14. Determine the dates of the 5 teachers' in-service days after due consultation with all relevant parties.
15. To receive and determine applications for distribution of funds in any endowments, subject to the terms of the endowment.
16. To accept and administer any new trusts or small endowments which may be offered to the Council for schools in its area.
17. To issue licenses in terms of the Children (Performances) Regulations 1968 and the Children (Performances and Activities) (Scotland) Regulations 2014.
18. 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.
19. Authorised to approve monthly PPP and NDP Unitary Charge invoices.
20. 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**

21. To ensure proper arrangements for developing and ensuring excellent relationships with our communities, including through community engagement, consultation, participation and community empowerment.
22. 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.
23. 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.
24. To support the progress of the Local Governance Review in relation to community empowerment and subsidiarity.
25. To support local organisations in the development of local democratic approaches, including community councils, community associations and community development trusts.
26. To develop and support North Ayrshire's approach to Participatory Budgeting, including grant awarding and mainstreaming.
27. To innovate in relation to community engagement, e.g. Consul and Consultation Institute, including Centre of Excellence.
28. To support organisations and communities seeking to acquire Council assets in terms of the Council's Asset Transfer Policy
29. To develop an Allotments Policy to support community aspirations.
30. To manage Participation Requests, Asset Transfer Requests, and Community Right to Buy Requests under the Community Empowerment (Scotland) Act
31. 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.
32. 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.
33. To ensure the provision of an adequate library and information service which meets the needs of residents.
34. To support arts and culture within and relating to North Ayrshire.
35. To support the aspirations of the artistic and cultural communities of North Ayrshire in pursuit of their aspirations.

36. To acquire whether by purchase, donation, bequest or exchange any items for the museum and art collections of the Council.
37. 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.
38. To authorise the acceptability of gifts to art galleries or museums on behalf of the Council and to acknowledge the acceptability of these gifts.
39. 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.
40. 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.
41. 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.
42. 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.
43. 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.
44. The management and delivery of Council sports and leisure facilities not operated by North Ayrshire Leisure Trust/KA Leisure.
45. Support for community events and activities.
46. To provide support and assistance to Community Councils, Community Associations and Community Development Trusts.
47. To provide discretionary grants to community organisations in pursuit of community interests.
48. 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.
49. To develop and manage Eglinton Park and related open spaces.
50. Outdoor education including management and development of Arran Outdoor Education Resource Centre.

51. 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.
52. 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.
53. To name streets in consultation with the relevant Locality Partnership.

### **Community and Locality Planning**

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

## 10. Director of the 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 manager of 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 a 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 11D hereof will be undertaken by the Senior Manager, Public Protection.

- 26.** The management of the mental health officer function.

## 11. Executive Director (Place)

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

- **Commercial Services** including Waste Services, Roads and Transportation. Corporate Transport Hub, Streetscene. Parks and Open Spaces, and Burial Grounds
- **Physical Environment** including Housing Services, Homelessness & Community Safety, Property Management & Investment (Housing and all buildings), Facilities Management (Catering, Cleaning, Janitorial, School Crossing Patrol), Building Services, Sustainability and Directorate Performance.
- **Economic Development and Regeneration** including Business Support and Development; Regeneration; Planning; Protective Services, Commercial Estates, Employability and Skills, Tourism and the Coastal Economy, and Economic Policy and Partnership.

### **Commercial 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.
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 (Puer) - for external hire equipment/plant
13. To co-operate with Strathclyde Passenger 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 and cremation services in terms of Burial Grounds (Scotland) Act and the Cremation Acts 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.
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.

20. The exercise of enforcement powers in respect of legislation governing littering, fly tipping, fly posting, dog fouling and the parks management rules.
21. 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.
22. 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.

### **Roads and Transportation**

23. 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
  - New Roads and Street Works Act 1991
24. 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
25. Authorised to grant wayleaves in respect of public utilities.
26. 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).
27. 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, harbours and navigable rivers.
28. 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.

29. 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.
30. 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.
31. 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.
32. To carry out the functions of the Council in terms of Section 4, 5, 8, 12 and 25 of the Coast Protection Act 1949.
33. 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.
34. Authorised to respond to consultation for applications for planning development control where these relate to roads and flooding issues.
35. Authorised to make application for extensions to the operator's licence to the vehicle licensing authority or any other decisions necessary to ensure the legal operation of the Councils fleet
36. 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

### **Physical Environment**

37. To manage the Council's physical assets including management of non-operational and operational land and buildings.
38. Authorised to proceed with the repairs and maintenance to the Councils operational property portfolio within approved policies.
39. Authorised to proceed with the repairs and maintenance to the public realm.
40. 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 Convenor and local Elected Members.
41. Authorised to apportion office accommodation amongst Council services and to arrange for any necessary alterations or adaptations to such accommodation.
42. Authorised to ensure the proper application of the Council Asset Management Strategy with respect to property including space standards etc.

43. To maintain the Council's Asset Register and keep a record of all assets owned by the Council.
44. To monitor the energy performance of buildings in terms of the Energy Performance or Buildings (Scotland) Regulations 2008.
45. To undertake Council functions relating to carbon reduction and climate control in terms Climate Change (Scotland) Act 2009.

### **Housing, Homeless and Community Safety**

46. Authorised to manage the Councils housing stock within approved policies.
47. The allocation of housing (including the allocation of pitches to Travelling Persons and the letting of garages and decisions on homeless 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.
48. 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.
49. Authorised to sign missives of let issued under the terms of the Housing (Scotland) Act 1987.
50. Authorised to exercise powers with respect to sub-standard housing under the Civic Government (Scotland) Act 1982 and the Housing (Scotland Act 2006
51. Authorised to exercise powers with respect to closing and demolition orders under the Housing (Scotland Act 2006.
52. Authorised to exercise powers with respect to houses in multiple occupation under the Housing (Scotland Act 2006.
53. Authorised to exercise powers with respect to compensation payments under sections 304 - 310 of the Housing (Scotland) Act 1987.
54. Authorised to agree, recharge and recover amounts payable by private owners as part of common repairs involving Council property.
55. Authorised to sign notices of proceedings and notices to quit to raise proceedings for repossession of dwelling housing.
56. 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.
57. Control and monitoring of the Housing Revenue Account Capital and Revenue budgets.
58. Making payments in respect of tenants/resident's groups, re-decoration grants, ex-gratia payments and similar such payments.

59. Authorise payments of grants applicable in terms of the Housing (Scotland) Act 2001 and 2006, relative to the improvement of houses;
60. Providing out of hours emergency services for homeless persons, urgent repairs etc.
61. Consulting with tenants/residents' groups on housing issues.
62. Ordering, managing, performing and inspection of repairs and improvements to ensure that housing stock meets the Scottish Housing Quality Standard.
63. 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;
64. Determining in accordance with relevant legislation or Council policy requests for succession of tenancies, mutual exchanges, lodgers, sub-letting, alterations etc.
65. Providing a factoring service for purchasers of Council houses and recovering appropriate charges.
66. 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.
67. Preparing the Councils Strategic Housing Investment Plan and other strategic documents and monitoring their implementation.
68. Assessment of general needs and special housing needs in liaison with other services and agencies.
69. Maintaining all buildings, furniture, equipment etc under his/her control and ensuring safety checks and procedures etc. are undertaken.
70. Ensuring proper arrangements are in place in respect of statutory compliance for housing properties in relation to issues such as Asbestos, Legionella etc.
71. 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.
72. To provide services to travelling persons including the management and maintenance of a site for travelling persons.
73. Managing and supporting unauthorised encampments of gypsies, travellers and others within North Ayrshire.
74. Authorised to appoint, and authorise as appropriate, officers to ensure that enforcement and administration of statutory responsibilities.

75. 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.
76. 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.
77. To install and manage close circuit television (CCTV), and to provide support as appropriate to North Ayrshire CCTV Company.
78. Carry out any duties required in relation to antisocial behaviour in terms of the Antisocial Behaviour etc. (Scotland) Act 2004.
79. 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.
80. Authorised to provide Housing Options Advice and Information in line with Statutory Guidance.
81. Authorised to facilitate access to Private Sector Housing including the provision of Rent Deposit Guarantees.
82. Authorised to provide Housing Support in line with the Housing Support Duty 2013 in line with Statutory Guidance.
83. Authorised, as proper officers in terms of s338 of the Housing (Scotland) Act 1987, to assess property condition in relation to the tolerable standard".

### **Employability and Business Development**

84. 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..
85. 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.
86. To authorise and apply for external funding that supports the economic development, growth or regeneration of North Ayrshire.
87. 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.
88. 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.

89. 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.
90. To manage the Big Lottery funded programme – Better Off North Ayrshire, including entering into contracts with third party providers and to offer money and household budgetary related advice and assistance.
91. To authorise and provide grants within budget parameters to support business start-up, growth and sustainability
92. To manage the Councils business loan programme via West of Scotland Loan Fund and Business Loans Scotland
93. To manage and deliver the Councils approved International Strategy
94. To manage and deliver the Councils Social Enterprise Strategy
95. To develop the Team North Ayrshire Approach to business development and. work with partners to deliver increased support to business.
96. To deliver the services as set out in the Scottish Government approved Business Gateway Contract for North Ayrshire
97. To respond to inward investment enquiries that have potential to bring new jobs to NA.
98. To promote North Ayrshire and its specific sites and locations for new business investment.
99. To commission and provide economic research, strategy and evidence to support the development of Council and Partnerships strategies and policy.
100. To participate in Basic Income research and studies.
101. To develop economic strategy for the Council and partners.
102. To develop the Council's proposals 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.
103. 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.

104. 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.
105. Where otherwise not provided for, to determine applications in terms of Part III (Development Management) of the 1997 Act as amended where: -
  - the determination is not contrary to the Development Plan
  - 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
  - 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.
106. To administer the provision of Part VI (Enforcement) and Part VII (Trees) of the 1997 Act and to determine applications.
107. 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.
108. 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.
109. Agree the discharge of planning conditions where the terms of the condition have been fulfilled.

110. To determine any application for advertisement consent under Regulations in terms of Section 182 of the 1997 Act to the displays of advertisements.
111. 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.
112. 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.
113. 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.
114. Evaluate applications and determine whether an Environmental Impact Assessment is required and where so, scope.
115. 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.
116. 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.
117. Make observations on behalf of the Planning Authority on routine proposals by statutory undertakers or on routine consultations to the Council as Planning Authority.
118. Determine applications for certificate for proposed and existing lawful use and development.
119. Determine applications for hazardous substance consent.
120. 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.
121. Represent the Council at Inquiries or Hearings to the Scottish Ministers under the Planning Legislation.
122. Confirm provisional Tree Preservation Orders, where no objections have been received.
123. To construct and maintain paths, to produce a Core Paths Plan and other duties in terms of the Land Reform (Scotland) Act 2003.
124. 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.

125. Authorise grants, where contained within existing budgets for listed buildings, properties in the conservation areas and externally supported schemes.
126. Authorise grants within policy and budget for improvements to landscape and the environment.
127. Authorise and apply for grants within policy and budget to improve access to the countryside.
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

### **Planning (Scotland) Act 2019**

The following functions under the Planning (Scotland) Act 2019 are delegated to the extent that they have been brought into force

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.

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

156. To undertake the functions of the Council relating to Environmental Health and Trading Standards
157. To assist in the determination of applications lodged under the following statutes in conformity with Council or Licensing Board policies.
  - Animal Health & Welfare (Scotland) Act 2006
  - Civic Government (Scotland) Act 1982
  - Control of Pollution Act 1974
  - Environmental Protection Act 1990
  - Environment Act 1995
  - European Communities Act 1972
  - Health and Safety at Work etc Act 1974
  - Licensing (Scotland) Act 2005 (Section 50)
  - Local Government (Scotland) Act 1973
  - Local Government etc. (Scotland) Act 1994
  - Local Government in Scotland Act 2003
  - Tobacco & Primary Medical Sales (Scotland) Act 2010
  - Petroleum (Consolidation) Regulations 2014
  - Tobacco & Primary Medical Sales (Scotland) Act 2010
  - Explosives Regulations 2014
  - Poisons Act 1972
158. To immediately suspend licenses where necessary for the purposes of public safety.
159. 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).

160. 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

### **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 2006
- The 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 (Scotland) Regulations 2000
- 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

161. To undertake the functions of the Council for the calibration and certification services to industry and commerce.
162. To undertake the functions of the Council for securing compliance with trades description and consumer product safety issues.
163. 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.
164. To undertake the functions of the Council relating to communicable diseases.
165. 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).
166. 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.

167. 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

168. 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.
169. To arrange for the burial or cremation of deceased persons in terms of the National Assistance Acts
170. To undertake all other functions of the Council relating to environmental health and trading standards.
171. 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.
172. 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.

### **Regeneration**

173. 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.
174. To promote the Ayrshire Growth Deal including development of businesses cases for investment.
175. To develop and implement i3's investment strategy and plans.
176. 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.
177. To develop and implement local regeneration projects including Conservation Area Regeneration Schemes, shopfront improvement scheme, public realm schemes and area-based masterplans.
178. To develop proposals and authorise applications for external funding subject to budget being available for any required match-funding.
179. To authorise grants, where contained within existing budgets for listed buildings, properties in conservation areas and externally supported schemes.
180. To authorise grants within policy and budget for improvements to landscape and the environment.

181. To develop proposals and authorise the expenditure of Vacant and Derelict Land Funding secured from the Scottish Government.
182. To promote outdoor access and active travel within North Ayrshire.
183. Implementation of active travel and transport projects as set out in relevant strategies
184. To construct and maintain paths, to produce a Core Paths Plan and other duties in terms of the Land Reform (Scotland) Act 2003.
185. 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.
186. Authorise and apply for grants within policy and budget to improve access to the countryside.
187. 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: -
  - 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
  - New Roads and Street Works Act 1991
  - 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.
188. 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.
189. 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.
190. Authorised to respond to consultation for applications for planning development control where these relate to roads and flooding issues.
191. 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

192. 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.

193. To support the development of Business Improvement Districts.

### **Estates**

194. In respect of the Council's property portfolio, including properties held or to be acquired under the Common Good or Housing Revenue Account, and consisting of land, buildings and all heritable assets including way leaves, servitudes, licences and agricultural and grazing leases, , to authorise all purchases and sales up to a value of THREE HUNDRED THOUSAND POUNDS (£300,000) or leases with an annual rental 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.

195. Authorised to agree sub-leases and assignments of leases on receipt of statutory references on completion of appropriate checks to ensure suitability of the incoming tenant.

196. Authorise, in respect of leases, sub-leases and assignments referred to in paragraphs 1 and 2 above to consent to rent free periods.

197. Authorise to terminate leases of 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.

198. Authorise to agree lease rentals at review periods.

199. Authorise to agree to extensions and variations to existing lease agreements, subject to the extensions or variations not extending the term of the existing lease by a period in excess of 10 years.

200. Authorise, where arrears of rent have arisen 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.

201. Authorised to proceed with the repairs to land, commercial and industrial premises in the ownership of the Council subject to budgetary provisions.

202. Authorised to enter into wayleaves, servitudes and leases with statutory bodies and other providers of utility services who require rights over land for particular purposes.

203. 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.

204. Authorised to determine requests for rent abatement.
205. Authorised to provide landlords consent on sub-leases to Council owned land and properties and to authorise contributions to capital incentive packages up to a value of £75,000 if within budget provision.
206. Authorising the development of commercial development opportunities on land assets owned by the council.

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

207. 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.
208. To develop tourism projects and proposals.
209. To develop proposals and authorise applications for external funding in support of delivery of our tourism strategy and the development of the coastal economy.
210. To develop investment and regeneration plans for Great Harbourside (Irvine and Ardeer).
211. To develop investment plans to support marine tourism in key locations.
212. To develop tourism events strategies, such as the Year of Coast and Waters 2020.
213. To promote the Ayrshire Growth Deal including development of business cases for investment.
214. To identify and promote opportunities for commercial investment linked to our tourism and coastal regeneration priorities.

## **12. 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.

## **13. 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>

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 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.
  
6. 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;
  
7. Decisions in relation to: -
  - a) 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 Corporate Management 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\01 Standing Orders Relating to Proceedings of the Council and Committees	
Last Revised:	Revised By	Nature of Revision
June 2018	MJA	As per Council report on 27/06/18
September 2019	MJA	Council agreed to: <ul style="list-style-type: none"> <li>• Reflect the transfer, as a result of restructuring, of functions between and within directorates;</li> <li>• Add new functions introduced by Planning (Scotland) Act 2019;</li> <li>• Reflect the developing agenda of subsidiarity, or participation, and working with communities and partners;</li> <li>• Allow officers to approve saes up to the value of £300,000 and leases up to the value £120,000 to facilitate the letting of properties at i3 as part of the Ayrshire Growth Deal.</li> </ul>
April 2020	HC	Formatting of document standardised
Dec 2020	AF	Draft revisals for Council on 16-12-20

# FINANCIAL REGULATIONS DECEMBER 2020



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

## FINANCIAL REGULATIONS

### 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 Service (Recovery and Renewal).

## **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**  
**December 2020**