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# NORTH AYRSHIRE COUNCIL

18 May 2022

## North Ayrshire Council

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**Title:** Scheme of Administration

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

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

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### 1. Executive Summary

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

### 2. Background

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

#### Scheme of Administration

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

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

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

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

### **3. Proposals**

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

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

### **Financial**

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

### **Human Resources**

- 4.2 None arising from the recommendations of this report.

### **Legal**

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

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

- 4.4 None arising from the recommendations of this report.

### **Climate Change and Carbon**

- 4.5 None arising from the recommendations of this report.

### **Key Priorities**

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

### **Community Wealth Building**

- 4.7 None arising from the recommendations of this report.

## **5. Consultation**

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

Craig Hatton  
Chief Executive

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

### **Background Papers**

None



North Ayrshire Council

Comhairle Siorrachd Àir a Tuath

## Scheme of Administration

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## SECTION 1: GENERAL

### Purpose

The Scheme regulates: -

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

### Amendment

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

### Interpretation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Committees**

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

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

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

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

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

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

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

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

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

## **SECTION 2: PROVISIONS APPLICABLE TO ALL COMMITTEES**

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

### **Delegated Functions**

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



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

## **General**

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

## **SECTION 3: CABINET**

### **Constitution**

The Cabinet will comprise seven Members of the Council including:

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

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

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

### **Chair**

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

### **Quorum**

Three Members of the Cabinet will constitute a quorum.

### **Delegated Powers**

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

### **Functions Referred**

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

### **General**

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

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

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

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

#### B. Resources and Services

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

### C. Financial Management

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

#### D. Property, Accommodation and Staffing

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

#### E. Digital

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

#### F. Education

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

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

G. Miscellaneous

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

## **Annexation A**

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

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



## **SECTION 4: APPEALS COMMITTEE**

### **Constitution**

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

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

### **Quorum**

Three members of the Committee will constitute a quorum.

### **Delegated Powers**

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

### **Meetings:**

The Appeals Committee will meet as and when business requires.

### **Functions Referred**

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

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

## **SECTION 5: AUDIT AND SCRUTINY COMMITTEE**

### **Constitution**

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

### **Chair**

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

### **Quorum**

Three Members of the Committee will constitute a quorum.

### **Delegated Powers**

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

### **Functions Referred**

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

#### Performance Functions

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

#### Audit Functions

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

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

#### Scrutiny Functions

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

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

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

### **Constitution**

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

### **Chair**

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

### **Quorum**

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

### **Standing Orders and Meetings**

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

### **Functions Referred**

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

Acting in the interests of Ayrshire as a whole: -

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

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

### **Delegated Powers**

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

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

#### **Constitution**

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

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

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

#### **Chair**

The Chair shall be appointed by the Joint Committee.

#### **Quorum**

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

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

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

#### **Delegated Powers**

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

## Functions Referred

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

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

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

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

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

### **Constitution**

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

### **Chair**

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

### **Quorum**

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

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

### **Standing Orders and Meetings**

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

### **Delegated Powers**

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

### **Functions Referred**

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

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



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

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

### **Constitution**

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

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

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

### **Chair**

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

### **Quorum**

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

### **Delegated Powers**

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

### **Functions Referred**

The following functions stand referred to the Committee:

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

## **SECTION 9: LICENSING COMMITTEE**

### **Constitution**

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

### **Chair**

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

### **Quorum**

Three Members of the Committee will constitute a quorum.

### **Delegated Powers**

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

### **Functions Referred**

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

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

### **Constitution**

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

### **Chair**

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

### **Quorum**

Six Members of the Committee shall constitute a quorum

### **Functions referred**

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

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

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

### **Constitution**

Ten Members of the Planning Committee.

### **Chair**

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

### **Quorum**

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

### **Delegated Powers**

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

### **Functions Referred**

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

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

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

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

## **SECTION 12: PLANNING COMMITTEE**

### **Constitution**

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

### **Chair**

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

### **Quorum**

Three Members of the Committee will constitute a quorum.

### **Delegated Powers**

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

### **Functions Referred**

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

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

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

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

other planning related orders where not otherwise delegated.

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



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

### **Constitution**

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

### **Chair**

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

### **Quorum**

Three Elected Members of the Council shall constitute a quorum.

### **Delegated Powers**

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

### **Functions Referred**

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

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

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

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

### **Constitution**

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

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

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

### **Chair**

The Leader of the Council will be the Chair.

### **Quorum**

Three Members of the Committee will constitute a quorum.

### **Delegated Powers**

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

### **Meetings**

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

### **Functions Referred**

The following functions stand referred to the Committee:

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

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

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

### **Constitution**

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

### **Chair**

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

### **Quorum**

The quorum is half of the voting members.

### **Delegated Powers**

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

### **Functions Referred**

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

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

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

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

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

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

#### 5. The Children Act 1975

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

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

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

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

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

8. Foster Children (Scotland) Act 1984

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

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

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

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



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

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

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

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

20. Children's Hearings (Scotland) Act 2011

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

implementation authority.)

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

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

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

22. Carers (Scotland) Act 2016

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

23. Miscellaneous

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

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

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

24. Appointment of: -

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

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