
Report to: Clackmannanshire Council

Date: 3 June, 2010

Subject: Amendments to: Scheme of Delegation, Financial Regulations, Contract Standing Orders & Notice of Amendments to Council Standing Orders

Report by: Chief Executive

1.0 Purpose

1.1 The purpose of this report is to obtain Council approval of amendments to the Council's Scheme of Delegation, Contract Standing Orders and Financial Regulations and to give notice to the Council of proposed changes to Standing Orders.

2.0 Background

2.1 In April, 2010, the Council considered a similar report but did not accept the recommendations for changes to the various governance documents.

2.2 Since that time, discussions have taken place with those elected members who raised issues around some of the initial proposals for change. These issues have been clarified and a revised paper is now coming before the Council.

2.3 The effect of approving this paper would alter the decision taken by the Council in April. This is permitted under Standing Order 35.1 which states:

"No motion that tries to alter or withdraw a council decision (or has that effect) will be considered or passed for at least six months from the date of the original decision, unless:

- *the Provost is satisfied that circumstances have changed in a relevant way; and*
- *the notice of meeting says that the decision may be withdrawn or altered (this information does not need to be specifically highlighted if the withdrawal or alteration is set out in terms of a report or of any committee minute put forward to us); or*
- *a decision is needed by law."*

2.4 In this instance, the Provost has confirmed he is satisfied that circumstances have changed in a relevant way since the Council decision of April 22, 2010.

3.0 Recommendations

- 3.1 It is recommended that the Council:
- a) approves an amended Scheme of Delegation as set out in the Appendix 3 to this report;
 - b) approves amendments to the Financial Regulations as set out in paragraph 6.1 of this report;
 - c) approves amendments to Contract Standing Orders as set out in paragraph 6.1 of this report;
 - d) notes that amendments to Standing Orders as set out in paragraphs 7.1 to 7.3 of this report will be submitted to the next Council meeting for approval;
 - e) agrees that a comprehensive review of the Scheme of Delegation and Standing Orders take place by the end of 2010.

4.0 Considerations

- 4.1 Following the recent changes to the Council's management structure, approved by Council on 28 January, 2010, it is necessary to amend the Scheme of Delegation, Contract Standing Orders, Financial Regulations and Standing Orders to ensure that the relevant officers in the new structure have the appropriate powers delegated to them.
- 4.2 The next sections of this report detail proposed changes to the Scheme of Delegation, Contract Standing Orders and Financial Regulations. In addition, this report formally indicates to the Council that consequent amendments to Standing Orders will be submitted to the next meeting of the Council in August.
- 4.3 While the changes proposed in this report are of a predominantly administrative nature, it is recognised that both the Scheme of Delegation and the Standing Orders would benefit from a more comprehensive review to improve their clarity and accessibility and to ensure they accurately reflect a range of changed contexts. This report, therefore, includes a recommendation to enable that to take place.

5.0 Scheme of Delegation

- 5.1 The Scheme of Delegation approved by Council on 31 January, 2008, sets out duties and responsibilities which are delegated to officers of the Council and specifically to the Chief Executive, Directors and Heads of Service. The Scheme further details those officers who are appointed and authorised to perform a range of statutory appointments (e.g. Chief Social Work Officer, proper officer for managing the Council's financial affairs – Section 95 officer).
- 5.2 In order to bring the Scheme of Delegation up to date with the Council's decision on its management structure and to ensure that nominated proper officers in relation to a series of statutory appointments are consistent with the agreed management structure, a number of administrative changes to titles in the Scheme require to be made. These are:

All Sections of Scheme **Except** Part 3H

- a) delete "Head of Human Resources" wherever occurring and replace with "Head of Support Services"
- b) delete "Head of Finance" wherever occurring and replace with "Director of Finance & Corporate Services"
- c) delete "Head of Administration & Legal Services" wherever occurring and replace with "Head of Strategy & Customer Services"
- e) delete "Director of Development & Environmental Services" wherever occurring and replace with "Director of Services to Communities"
- f) delete "Head of Development Services" wherever occurring and replace with "Development Service Manager"
- g) delete "Development Quality Team Leader" wherever occurring and replace with "Development Management Team Leader"
- h) delete "Head of Property Services" wherever occurring and replace with "Head of Facilities Management"
- i) delete "Head of Social Services" wherever occurring and replace with "Head of Social Policy"
- j) delete "Child Care Services Manager" wherever occurring and replace with "Senior Social Work Manager".

Part 3H

Part 3H outlines various statutory appointments which the Council must make. Proposals for changing these to appropriate officers within the new structure are set out in Appendix 2 to this report.

- 5.3 The Scheme also needs to be amended to reflect the revised configuration of services within each Directorate. The most significant of these changes relate to property-related services which formerly were located in Services to People but which in the new structure are located in Services to Communities.
- 5.4 Finally, there are some paragraphs within the Scheme which are now out of date (for example, due to changes in legislation) and some historic administrative omissions which is it proposed the Council also takes the opportunity to bring up to date at this time.
- 5.5 Appendix 1 to this report describes the proposed changes (except titular changes already described in paragraph 5.2 and Appendix 2 of this report) with reference to the current Scheme. Appendix 3 to this report presents a revised draft Scheme which incorporates these changes. No other changes except the ones described in this report have been incorporated into the revised Scheme.

6.0 Financial Regulations & Contract Standing Orders

- 6.1 Similar to the Scheme of Delegation, the Council's Financial Regulations and Contract Standing Orders also require some administrative amendments to titles to ensure they are consistent with the revised management structure recently agreed by Council. The amendments proposed to both these documents are:
- a) delete "Head of Finance" wherever occurring and replace with "Director of Finance & Corporate Services"
 - b) delete "Corporate Management Team" wherever occurring and replace with "Council Management Team"
 - c) delete "Head of Human Resources" wherever occurring and replace with "Head of Support Services"
 - d) delete "Head of BITs" wherever occurring and replace with "Head of Support Services"
 - e) delete "Head of Property Services" wherever occurring and replace with "Head of Facilities Management"
 - f) delete "Fleet Manager" wherever occurring and replace with "Head of Facilities Management"
 - g) delete "Senior Auditor" wherever occurring and replace with "Audit Manager"
 - h) delete "Head of Administration & Legal Services" wherever occurring and replace with "Head of Strategy & Customer Services, in consultation with the Legal Services Manager"
 - i) delete "Administration Team" wherever occurring and replace with "Legal Team"
- 6.2 Copies of the current Financial Regulations and Contract Standing Orders have been placed for reference in each Group Room.

7.0 Standing Orders

- 7.1 Consequent on the amendments proposed above, some changes to the Council's Standing Orders will require to be made.
- 7.2 Standing Order 3.2 states: *"The standing orders can only be changed or abolished when (at a meeting of the Council) there has been an indication that proposals to amend standing orders will be brought before the next Council meeting."*
- 7.3 The proposals to amend Standing Orders which will come forward for final approval to next Council meeting will be:

a) proposed changes to titles of relevant post-holders as a result of changes to the Scheme of Delegation

b) correction of typographical errors (e.g. in Standing Order 46.2, the number of members of the Local Review Body should be "10" and not "8").

8.0 Sustainability Implications

NA

9.0 Resource Implications

Financial Details

The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

N/A

Finance have been consulted and have agreed the financial implications as set out in the report.

N/A

Staffing

N/A

10.0 Exempt Reports

Is this report exempt? No

11.0 Declarations

11.1 The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities 2008 - 2011** (Please double click on the check box)

The area has a positive image and attracts people and businesses

Our communities are more cohesive and inclusive

People are better skilled, trained and ready for learning and employment

Our communities are safer

Vulnerable people and families are supported

Substance misuse and its effects are reduced

Health is improving and health inequalities are reducing

The environment is protected and enhanced for all

The Council is effective, efficient and recognised for excellence

(2) **Council Policies** (Please detail)

12.0 Equalities Impact

12.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? N/A

13.0 Legality

- 13.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

14.0 Appendices

- 14.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

- 1 - Proposed Changes to Scheme of Delegation
- 2 - Proposed Changes to Part 3H
- 3 - Revised Scheme of Delegation

15.0 Background Papers

- 15.1 Have you used other documents to compile your report?
Yes:

- Scheme of Delegation as amended 26.08.09
- Standing Orders as amended 26.08.09
- Contract Standing Orders, 2009-10
- Financial Regulations, February, 2008

Author(s)

NAME	DESIGNATION	SIGNATURE
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Approved by

NAME	DESIGNATION	SIGNATURE
Angela Leitch	Chief Executive	Signed: A Leitch

APPENDIX 1 - Proposed Changes to Scheme of Delegation, excluding title changes listed in the report and changes to Part 3H (see Appendix 2)

	Existing Scheme Ref.	Proposed Change Incorporated Into Draft (Appendix 3) & Comment
1	1.9	Technical change - page number references changed
2	5.14 to 5.20	Delete these paragraphs and insert new ones to bring the Scheme up to date with the Council's decision on 4 June 2009 to revise the terms of reference of the Scrutiny Committee (also ref Scrutiny Committee of 21 May 2009). The relevant paragraphs in the proposed revised Scheme are 5.14 to 5.24
3	15.0, 15.1	Delete reference to "Chief Executive" to reflect change in service responsibilities.
4	16.0	Delete "Chief Executive's Services" and replace with "Finance & Corporate Services"
5	16.1	Delete "Chief Executive" and replace with "Director" Delete "Administration & Legal Services", "Strategy & Policy" ; insert "Strategy & Customer Services" and "Support Services" Delete reference to "Emergency Planning" which is already covered in paragraph 12.11 of current and proposed revised Scheme
6	16.9	Remove from this section and insert under the responsibilities of Director of Services to Communities (ref. in revised Scheme 17.33)
7	N/A insertion	Insert as 17.34 the following: "Providing Clackmannanshire Licensing Board with such services as are required for carrying out their alcohol and gambling licensing functions under the Licensing (Scotland) Act 2005 and Gambling Act 2005 with the exception of the role of the Clerk." Comment: There is no delegation arrangement specified in the existing Scheme in respect of the administration and management of alcohol and gambling licensing as previously this was dealt with in legal services via the clerk. In separating the licensing function from the Clerk's role, we need to explicitly provide for administration and management arrangements in the Scheme of Delegation under Services to Communities..
8	16.16	Delete as suspending a liquor license can now only be done by the Licensing Board.
9	16.20	Remove reference to "regeneration outcome agreement", "community regeneration fund" as they no longer exist (ref in revised draft Scheme 16.20)
10	16.21	Insert "Clacks Business Panel" after "Clacks 1000 Citizens' Panel" (ref in revised draft Scheme 16.21).
11	16.24	Remove reference to "East of Scotland European Consortium" as the Council is no longer a member
12	17.0 to 17.2	Delete these paragraphs to reflect that these responsibilities now come under the Director of Finance & Corporate Services
13	18.0	Delete "Development & Environmental Services" and replace with "Services to Communities" - ref 17.0 in draft revised Scheme)
14	18.1	Insert "Community & Regulatory" and "Facilities Management" to reflect changed structure (ref. 17.1 in draft revised Scheme)
15	N/A insertion	Insert as paragraph 17.14: "Carrying out duties and exercising powers under The Land Reform (Scotland) Act 2003." This delegated power was previously agreed by Council but has not been included in recent updates to the Scheme due to administrative omission.
16	19.1	Insert "Education" and "Social Policy" to reflect changed structure (ref 18.1 in revised Scheme)
17	19.2	Delete and replace as follows in revised Scheme: Insert at 16.14 - "Delivering, managing and promoting library, community and museum services" Insert at 17.47- "Delivering leisure services" Insert at 18.3 - "Delivering education and youth services."
18	19.37 to 19.39 19.41	Remove from this section and insert under responsibilities of relevant Directors in new structure, viz:

		19.37 becomes 16.14 in revised Scheme 19.38 becomes 16.15 in revised Scheme 19.39 becomes 17.32 (in part - related to buildings, facilities management) and 16.14 (in part - related to service management) in revised Scheme 19.41 becomes 16.22 in revised Scheme
19	19.43	Remove reference to "leisure", "environmental" and "arts." (ref 18.40 in revised draft Scheme) Insert at 16.23, "Running a system for charging people to take part in arts and community programmes and for helping to fund these, in line with our policies." Insert at 17.48, "Running a system for charging people to take part in leisure and environmental programmes and for helping to fund these, in line with our policies."
20	19.47 to 19.48	Become 18.44 & 18.45 in revised Scheme
21	19.49	Becomes 17.35, amended to delete "houses, shops, lock ups and garages we own" and insert in its place "HRA property portfolio and indented properties from Housing General fund.."
22	19.50	Becomes 17.36 - insert "in conjunction with Services to People"
23	19.51	Becomes 17.37 in revised Scheme
24	19.52	Becomes 18.46 in revised Scheme
25	19.53	Becomes 18.47; delete "accommodation we provide" and insert "tenancies"
26	19.54	Becomes 18.48 in revised Scheme
27	19.55	Becomes 18.50 in revised Scheme
28	19.56	Becomes 18.49 - insert "in conjunction with Community & Regulatory Services"
29	19.57	Change "Communities Scotland" to "Scottish Government"; ref 18.51 in proposed revised Scheme)
30	19.58	Becomes 17.39 - delete "funding" and insert "a strategy"
31	19.59	Becomes 17.40 - insert "in conjunction with Services to People"
32	19.60	Becomes 17.41 in revised Scheme
33	19.61-19.62	Becomes 17.42-17.43 in revised Scheme
34	19.63	Insert at the beginning, "in conjunction with Services to People"; delete "regenerating Sauchie, Alloa South & East and Tullibody" and insert "regeneration,,"; becomes 17.38 in revised Scheme
35	19.64	Becomes 18.52 - insert at the beginning, "in conjunction with Community & Regulatory Services"; delete "maintaining" and insert "Developing"
36	19.65	Becomes 18.56 in revised Scheme
37	19.66	Delete as Supporting People is no longer a separate ring-fenced budget
38	19.67	Insert "and providing disabled adaptations in conjunction with Services to Communities" at the end of the sentence (ref 18.57 in revised Scheme)
39	19.68	Delete - already covered in 17.45 in revised scheme
40	19.69	Delete "within the standards set by Communities Scotland" as no longer relevant; transfer amended paragraph to Services to Communities as 18.58 in revised draft Scheme
41	19.70	Becomes 18.53 - delete "emergency repairs"
42	19.71-19.72	Becomes 17.44-17.45 in revised Scheme
43	19.73	Becomes 18.54 in revised Scheme
44	19.74	Becomes 18.59 in revised Scheme
45	NA	Insert relevant acts relating to housing, homelessness and antisocial behaviour 17.46 in revised Scheme
46	19.75	Delete reference to "Parental Responsibilities Order" and insert in its place "Permanence Orders under the Adoption and Children (Scotland) Act 2007". Becomes 18.60 in proposed revised Scheme; this reflects update in legislation
47	19.79	Becomes 18.55 in revised Scheme - insert at end of sentence "in conjunction with Community & Regulatory Services"
48	21.6	Replace reference to "services plans" with "business plans" (ref 20.6 in revised Scheme)
49	22.1	In the table delete reference to "Licensing (Scotland) Act 1976" and replace with "Licensing (Scotland) Act 2005".(ref 21.1 in new Scheme, page 51); Under that heading, delete "Section 7" and replace with "Paragraph 8(1)(a) of Schedule 1." (ref 21.1 in new Scheme, page 51)
50	22.1	See Appendix 2 to this report for full list of titular changes and additions listed

		under 21.1 in the new Scheme
51	22.2	<p>In the table, delete references to clerking the District Court as that is no longer a responsibility of the Council (ref 21.1, page 53 new Scheme)</p> <p>In the table, insert "solicitor" as officer who will carry out duties of Clerk to Licensing Board if "Head of Administration & Legal Services" (to be changed to "Legal Services Manager") is not available. (ref 21.2 in new Scheme)</p> <p>In the table, insert "Finance Service Manager" as officer who will carry out duties if "Head of Finance" (to be changed to "Director of Finance & Corporate Services") is not available (ref 21.2 in new Scheme)</p>

APPENDIX 2 - Proposed Changes to Part 3h of Scheme of Delegation

Local Government (Scotland) Act 1973		
Section 3	delete "Head of Social Work Services" and insert "Head of Social Policy"	
Section 33a	delete "Head of Administration & Legal Services" and insert "Chief Executive, Head of Strategy & Customer Services, Principal Administration Officer"	
Section 33a(3)	delete "Head of Administration & Legal Services" and insert in its place "Chief Executive" and "Head of Strategy & Customer Services"	
Section 34	delete "Head of Administration & Legal Services" and insert in its place "Chief Executive"	
Section 40	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Section 43 (all paragraphs):	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Section 50b	delete "Head of Administration & Legal Services" and insert "Chief Executive/Director in consultation with Legal Services Manager"	
Section 50c	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Section 50f	delete "Head of Administration & Legal Services" and insert "Chief Executive/Director in consultation with Legal Services Manager"	
Sections 92 & 95	delete "Head of Finance" and insert in its place "Director of Finance & Corporate Services"	
Section 145	delete "Director of Development & Environmental Services" and insert in its place "Director of Services to Communities"	
Section 190	delete "Head of Administration & Legal Services" and insert "Chief Executive" and "Chief Officers"	
Section 191	delete "Head of Administration & Legal Services" and insert "Chief Executive, Director of Finance & Corporate Services (in consultation with Legal Services Manager)"	
Section 193	insert "in consultation with Legal Services Manager"	
Section 194	delete "Head of Administration & Legal Services" and insert "Legal Services Manager"	
Section 197	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Section 202	delete "Head of Administration & Legal Services" and insert "Legal Services Manager"	
Section 202B	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Section 204	delete "Head of Administration & Legal Services" and insert "Legal Services Manager"	
Section 206	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Section 231	delete "Head of Administration & Legal Services" and insert "Chief Executive/Director in consultation with Legal Services Manager"	
Licensing (Scotland) Act 2005		
Para 8(1)(a)	delete "Head of Administration & Legal Services" and insert "Legal Services Manager"	
Civic Government (Scotland) Act 1982 (Section 113), Ethical Standards in Public Life Etc (Scotland) Act (Register of Interests) Regulations 2003 (Section 7(1))		
Section 113 Section 7(1)	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Representation of the People Act 1983:		
Section 41	insert "presently postholder of Chief Executive"	

Weights and Measures Act 1985:		
Section 72(1)(a)	delete "Director of Development & Environmental Services" and insert in its place "Director of Services to Communities"	
Local Government & Housing Act 1989		
Section 2	delete "Head of Human Resources" and insert "Head of Support Services"	
Section 5	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services in consultation with Legal Services Managers"	
Section 19	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services"	
Environmental Protection Act 1990		
Section 149(1)	delete "Director of Development & Environmental Services" and insert in its place "Director of Services to Communities"	
Local Authorities (Contract) (Scotland) Regulations 1997:		
Regulation 4	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services in consultation with Legal Services Manager"	
The Regulation of Investigatory Powers (Scotland) Act 2002, both sections:		
Section 6 Section 7	delete "Head of Administration & Legal Services" and insert in its place "Head of Strategy & Customer Services in consultation with Legal Services Manager"	



Clackmannanshire Council

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Scheme of delegation

May 2008

(updated 26-05-10)



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Scheme of delegation – definitions

At the first stage

The first step in a process where the Head of Service has to approve any request for changing the grade of a post before that request is put to the Head of Support Services.

Chief Social Work Officer

This person is responsible for making sure we are providing all social work services properly. The Head of Social Policy is our Chief Social Work Officer.

Contract standing orders

Our set of rules for procuring services and goods, and paying for building work, building maintenance and engineering work.

Delegate

When we delegate duties or responsibilities we are giving someone else the authority to act on our behalf. We can arrange to delegate functions to a committee, subcommittee or council officer.

Development Plan

A plan made up of the Structure Plan and the Local Plan. The Structure Plan sets out our policy and general proposals for how land in Clackmannanshire can be used. The Local Plan sets out in more detail our proposals for developing and using land in Clackmannanshire.

Financial Regulations

Our set of rules to make sure we protect the public money we handle and spend it correctly and responsibly. The Regulations also help and protect staff dealing with financial business.

Head of Paid Service

The most senior council officer is the Chief Executive, who is also the Head of Paid Service. This person is the senior adviser responsible for the smooth running and co-ordination of council services.

Monitoring Officer

Every council has to appoint a Monitoring Officer who will investigate any proposal, decision or failure to act where council, a committee or an officer may have broken an Act of Parliament, a law or any code

of practice. The Monitoring Officer may have to prepare a report for us. Our Monitoring Officer is the Head of Strategy & Customer Services.

Procuring (procurement)

Buying goods and services, and paying for building work, building maintenance and engineering work. The main steps in procurement include planning, locating, purchasing, ordering, managing suppliers, and using and disposing of the product, service or asset.

Proper officers

Employees we appoint to deal with formal functions we must perform by law.

Ratification

A way of approving, at a higher level, a decision taken earlier if there is some doubt over the authority of the original decision maker.

Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman provides an open, accountable and accessible complaint system. The organisation offers free, independent advice for members of the public making complaints about public services. You can phone them on 0870 011 5378 or send an e-mail to enquiries@scottishombudsman.org.uk.

Standing orders

Our set of rules to make sure that council and committee meetings are conducted properly and that decisions are made in an open and accountable way (that is, in a way we can justify).

Vire

Transferring funds from one budget to another. The limits on the amounts that can be transferred are set out in our financial regulations.

Ward

Part of the local authority area for the purpose of electing councillors. Clackmannanshire is divided into five electoral wards. There are three wards with four councillors and two wards with three councillors (18 councillors in total).

Scheme of delegation to committees and officers

This scheme of delegation forms part of the standing orders approved by us on 31 May 2007.

1.0 Introduction

- 1.1 We approved this scheme of delegation on 31 January 2008 to delegate duties and responsibilities to committees, subcommittees and officers (that is, authorise them to act for us) as allowed under section 56 of the Local Government (Scotland) Act 1973. The scheme contains details of duties and responsibilities we have chosen to delegate and provides guidance to committees, subcommittees and officers.
- 1.2 You need to read this scheme of delegation alongside:
- our standing orders (the rules which make sure council meetings and committee meetings are run properly, and decisions are made in an open way);
 - contract standing orders (the rules for buying in goods and services); and
 - our financial regulations (rules to make sure we are honest and open when dealing with public money).
- 1.3 These documents make up the wider framework of governing rule we work within.
- 1.4 We also have 'corporate priorities' (issues which are important to us) which we may change from time to time. Where duties and responsibilities are delegated, this should always be to help us achieve our corporate priorities.
- 1.5 We aim to make sure our services are effective, focused on our customers' needs and co-ordinated across all service areas to reflect our corporate

priorities.

- 1.6 This scheme of delegation must keep to not only the terms of our standing orders, contract standing orders and financial regulations, but also all relevant council policies, procedures and guidelines. There are current versions of our main documents on our website at www.clacksweb.org.uk.
- 1.7 Human resources' policies are on our intranet site COIN.
- 1.8 We believe that decisions should be made locally, consistent with the issue involved. For this reason we aim to give each committee the power to deal with all matters relating to their service area, except for matters relating to certain restricted areas. We will clearly specify delegated duties to officers.
- 1.9 This delegation scheme is set out in the following three sections.
 - The council's duties and responsibilities (pages 7 to 10)
 - Duties and responsibilities delegated to committees (pages 11 to 17)
 - Duties and responsibilities delegated to officers (pages 18 to 53)

Scheme of delegation - part 2a

2.0 The council's duties and responsibilities

- 2.1 There are limits to the powers that the council can delegate. By law some decisions can only be taken by the council. (These include setting the Council Tax). There are also certain matters which we have chosen to deal with at council level. These include decisions about budgets.
- 2.2 As a council, we can only delegate duties and responsibilities to a committee, sub-committee, or to an officer of the council. We cannot delegate to individual councillors. However, officers may need to consult particular councillors (for example the councillors of a ward an issue relates to). In these cases the local councillors will be asked for their views but the final decision will rest with the officer.
- 2.3 Unless they are restricted by a specific council decision or by an approved council policy, all committees have the full duties and responsibilities delegated to them. This means that committees can take decisions without referring the matter to the council for approval. However, although a duty may be delegated to a committee or a council officer, we may still exercise our powers for specific decisions.
- 2.4 Committees can also refer any matter back to us for a decision.

3.0 Specific matters that must be dealt with by the full council

- 3.1 By law, only the council can do the following.
- 3.2 Define our values and main objectives and approve our main policies and strategies.
- 3.3 Decide how to share out funding between the different functions and activities of the council to reflect our priorities.
- 3.4 Approve the community plan.
- 3.5 Elect the Leader and Depute Leader of the council, the Provost and the Depute Provost.
- 3.6 Appoint committee members, conveners and vice-conveners.
- 3.7 Set up standing committees and 'adhoc' committees (those set up for a specific purpose).
- 3.8 Make schemes for members' allowances.
- 3.9 Appoint representatives to joint boards.
- 3.10 Designate one of our officers as the 'Head of Paid Service' (the most senior council officer, also known as the Chief Executive, who is the main adviser responsible for the smooth running of council services.).
- 3.11 Designate one of our officers as our monitoring officer (responsible for investigating any matter where we, a committee or an officer may have broken the law or a code of practice).

- 3.12 Approve the main roles and responsibilities of the Chief Executive, directors and heads of service depending on the authority delegated to the Chief Executive as set out in section 3c on page 22.
- 3.13 Appoint employees to act as the 'proper officers' for the specific duties set out in section 3h of this scheme of delegation.
- 3.14 Respond to the Scottish Public Services Ombudsman's findings of inefficiency or dishonesty.
- 3.15 Consider any report the monitoring officer has prepared after an investigation, and keep to section 5 of the Local Government and Housing Act 1989.
- 3.16 Approve standing orders, financial regulations, contract standing orders and the scheme of delegation.
- 3.17 Agree exceptions to the council's financial regulations or contract standing orders (other than where the powers have been delegated to the Head of Strategy & Customer Services, and Director of Finance & Corporate Services, under the exception procedure set out in contract standing orders).
- 3.18 Set the Council Tax and the rent we charge our tenants.
- 3.19 Approve budgets (This does not limit authority delegated to officers to transfer funds between budgets as set out in our financial regulations.).
- 3.20 Spending not budgeted for.
- 3.21 Borrow money.

- 3.22 Make, alter or cancel any scheme introduced by law.
- 3.23 Make, alter or cancel any byelaws.
- 3.24 Decide to issue a compulsory purchase order (where the law or the local authority insists that a property must be sold to them).
- 3.25 Approve the development plan (a document made up of the structure plan, which sets out our policy on and plans for using land in Clackmannanshire, and the local plan, which explains in detail our plans for how we will develop and use land).
- 3.26 Promote or oppose parliamentary bills.
- 3.27 Consider and respond to proposed amendments to our boundaries or the boundaries of electoral wards.
- 3.28 Decisions on planning applications which the Planning Authority is required to make in terms of the Town and Country Planning (Scotland) Act 1997, as amended.

Scheme of delegation - part 2b

4.0 Duties and responsibilities delegated to committees

- 4.1 Part 2a lists the powers we cannot delegate. All other powers can be delegated to a committee, a subcommittee or a council officer. We may change, withdraw or restrict any delegation, or refer a specific role to any committee or officer.
- 4.2 Each committee or subcommittee will have all powers and duties delegated to it except where the council places any restrictions on a power or duty. When carrying out its duties, the committee or subcommittee must keep to our standing orders and any resolutions or instructions passed by the council. Where appropriate, the committee or subcommittee may decide to refer any matter to the council for a decision, but this is only likely to happen if a committee or a subcommittee is not sure that it has enough authority to decide the matter. Decisions taken by committees and subcommittees will be considered to be the council's decision.
- 4.3 Ad-hoc committees (those set up for a specific purpose when necessary) will act in line with the duties given to them by the council.
- 4.4 A committee cannot alter its principles or membership without permission from the council. Details of proposed changes in membership must be given to the Head of Strategy & Customer Services who will arrange for the change to be considered. Changes will not apply until they have been approved by the council.
- 4.5 Committees cannot set up subcommittees without the council's approval. However, they can set up temporary working groups to examine or consider issues and report back to the wider committee.

- 4.6 Committees can only decide matters that are within the authority that has been delegated to them, although they may make recommendations to the council. If it is not clear whether a committee has the authority to decide on a matter, the Head of Strategy & Customer Services will make a decision on the matter. If a matter falls within the duties of more than one committee, it will be decided by the council.
- 4.7 The authority to appoint our chief officers (the Chief Executive, directors and heads of service) is delegated to an Appointments Committee which we set up as and when we need it.
- 4.8 Section 2c sets out the broad roles of each of the council's standing committees.

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Scheme of delegation - part 2c

5.0 Committee's roles

5.1 The standing committees of the council have the following roles.

5.2 Attendance Committee

5.3 Dealing with parents who are failing to meet their responsibility to make sure their children attend school regularly.

5.4 Referring children to the Reporter to the Children's Panel, or taking action through the courts.

5.5 Note: this committee does not have authority to change or make council policy.

5.6 Complaints Review Committee (Social Services)

5.7 Reviewing complaints about how the council has carried out its social work duties required under section 5B of the Social Work (Scotland) Act 1968 and the Social Work (Representations Procedure) (Scotland) Order 1990, and any relevant guidance issued from time to time by the Social Work Services Group of the Scottish Government.

5.8 Note: by law, the full council must set up this committee. Although it is listed as a committee set up by us, this committee does not follow our standing orders. Instead it follows its own procedural rules.

5.9 Education Appeals Committee

5.10 Carrying out our duties relating to parents' appeals under Part II of the Education (Scotland) Act 1980.

5.11 Note 1: by law the full council must set up this committee. Although it is listed as a committee set up by us, this committee does not follow our standing orders. Instead it follows its own procedural rules.

5.12 Note 2: this committee does not have the authority to change or make council policies.

5.13 Scrutiny Committee

5.14 Monitoring the performance of services against agreed standards, targets and budgets.

5.15 In accordance with Following the Public Pound, monitoring the performance of arms-length and external organisations that receive funds from us to provide important services to the public, or to provide social benefits.

5.16 Promoting internal control by the systematic appraisal of our risk management processes.

5.17 Initiating or undertaking reviews as approved by us.

5.18 Receiving periodic reports which review the position against the standards and targets set out in documents such as the Corporate Plan and the annual budget.

5.19 Receiving the following reports and accompanying analysis:

- draft annual public performance reports prior to their publication.

- external audit reports and action plans resulting from such
- internal audit update reports and action plans resulting from such
- balanced scorecards
- performance indicators submitted annually to Audit Scotland
- summary reports of all comments and complaints, and
- internal audit results of investigations

5.20 Considering and monitoring the operational and strategic internal audit plans and reviewing internal audit performance.

5.21 Monitoring and reviewing actions taken on internal and external audit recommendations.

5.22 Monitoring progress on service inspection action plans.

5.23 Agreeing an annual scrutiny plan (approved by us) that includes service and policy review proposals being :-

- items or issues identified by the Scrutiny Committee
- items referred to the Scrutiny Committee by the Administration and/or Opposition.
- items referred by us directly to the Scrutiny Committee.
- items referred to the Scrutiny Committee from other stakeholders such as partner agencies.

5.24 Reports on review will be submitted to the Scrutiny Committee who may refer them to us for further consideration

6.0 Planning Committee

6.1 Subject to Paragraphs 3.28 and 17.3, taking decisions on planning applications and enforcing planning laws.

6.2 Dealing with regulatory issues arising in the fields of building standards, trading standards, environmental health and licensing (other than liquor licensing), all in line with our policy.

7.0 Regulatory Subcommittee of the Planning Committee

7.1 Hearing appeals against officers' decisions on applications to grant or renew licences issued under the Civic Government (Scotland Act) 1982, and deciding whether to suspend or alter any licences issued under that Act.

7.2 Taking decisions on suspending or altering a premises approval as provided for under the Marriage (Scotland) Act 2002.

7.3 Holding hearings for the purposes of paragraph 7 of Schedule 1 of the Smoking Health and Social Care (Scotland) Act 2005 (the SHSCA 2005).

7.4 Hearing appeals against officers' decisions to refuse or remove a landlord's or agent's registration under part 8 of the Antisocial Behaviour etc (Scotland) Act 2004.

8.0 Workforce Committee

8.1 Hearing appeals by our employees and disputes raised by recognised trade unions, in line with Human Resources' policies and procedures.

8.2 Note: this committee does not have authority to change or make council policies.

8.0(A) Local Review Body

8.1(a) Considering and determining applications for review of decisions made by officers under delegated powers in respect of planning applications for local

development, in accordance with the Town and Country Planning (Scotland) Act 1997, as amended.

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Scheme of delegation – part 3a

9.0 Duties and responsibilities delegated to officers

- 9.1 We are committed to setting the highest standards of decision-making. To achieve this we have chosen to exercise our right (under section 56 of the Local Government (Scotland) Act 1973) to delegate certain duties and responsibilities to committees, subcommittees or council officers.
- 9.2 If we or a committee has delegated authority to an officer, the officer acting on that authority must keep to any relevant, approved policies and procedures without referring the matter back to us or the committee (unless acting on the delegated authority would bring the officer into conflict with any other approved policy or procedure or would be against the law).
- 9.3 These policies and procedures include the following.
- Standing orders
 - Contract standing orders
 - Financial regulations
 - The council's human resource policies and procedures, including those relevant to devolved management of schools (where the management has been transferred to schools.)
 - Relevant plans and policies adopted by the council
 - Approved budgets
 - National code of local government conduct
 - The Scottish Joint Committee's/Councils, Terms and Conditions for all employees working for local Councils
- 9.4 When acting on the authority delegated to them, officers must make sure that they consult the Chief Executive, the appropriate director, the Head of Strategy & Customer Services and the Head of Support Services (as appropriate) about all sensitive or complex matters, or if they need advice or

guidance. In particular, officers must get technical, construction and procurement advice.

- 9.5 Officers must make sure they consult local councillors if it appears that a proposed decision or action could directly affect a particular ward. This does not apply if the decision or action has a general effect on all wards.

10.0 Further delegation

- 10.1 If duties and responsibilities have been delegated to an officer under this scheme, that officer may authorise any member of his or her staff to act for them.
- 10.2 Officers delegating powers must consider the role of the officer they intend to delegate those powers to and whether the officer has appropriate qualifications and experience. Any officer using delegated powers will be responsible to us for their actions. However, if an officer delegates their powers to another officer, this will not relieve the delegating officer of his or her responsibility for the duties they have delegated. Proper officers should make sure any delegation of statutory powers and duties is recorded.

11.0 Limits on delegated powers

- 11.1 Our scheme does not allow the following matters to be delegated to officers.
- 11.2 Matters that must be considered by the full council or a committee or subcommittee.
- 11.3 Matters not covered by this scheme of delegation.
- 11.4 Matters which, by law, cannot be delegated to an officer.

Scheme of delegation - part 3b

12.0 Specific duties and responsibilities delegated to the Chief Executive

12.1 The Chief Executive has overall authority over all other officers and has the powers he or she needs to do the following.

12.2 Efficiently manage the council's responsibilities and performance in carrying out its roles.

12.3 Set up proper decision-making and consultative forums for senior officers.

12.4 Give professional advice in the decision-making process.

12.5 Take the action considered necessary to meet any of our objectives (within the limitations of this scheme of delegation).

12.6 Review the chief officer organisational structure, in consultation with the Head of Support Services, and recommend any changes to the council.

12.7 Review the council's administration and management arrangements and, where allowed and in consultation with the Head of Support Services, make any changes necessary to improve how we provide services.

12.8 Maintain good working relationships within the council.

12.9 Promote good relations with organisations outside the council.

12.10 Maintain a corporate plan and make sure all services keep to its requirements.

12.11 Have overall responsibility for carrying out the council's role relating to

emergency planning.

12.12 Authorise action, and agree spending in emergencies or disasters.

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Scheme of delegation – part 3c

13.0 The Chief Executive - workforce issues

- 13.1 The Chief Executive is also authorised to do the following.
- 13.2 Set the grade of posts, placement of employees and date of any changes (at any level below director) as a result of a review approved by the Head of Support Services.
- 13.3 Amend service structures within the limits of existing budgets, after consulting the Head of Support Services
- 13.4 Decide on the number of posts, including altering the number of posts we have, after consulting with the Head of Support Services.
- 13.5 Authorise responsibilities being transferred among directors or heads of service, but only in consultation with the Head of Support Services, and then only if the action does not have a significant effect on the amount of responsibility held by any director or head of service (if the Chief Executive and the Head of Support Services disagree on this point, the decision must be referred to the full council.)

Scheme of delegation - part 3d

14.0 Chief Executive – strategic management

- 14.1 The Chief Executive will make proper arrangements for the strategic management (the overall management of council activities) of the council, particularly the following.
- 14.2 Making sure council policies are put into practice.
- 14.3 Making sure all parts of the council follow policies in a consistent way.
- 14.4 Reviewing how efficient and effective our management and administrative systems are.
- 14.5 Managing and developing the workforce.

Scheme of delegation - part 3e

15.0 Specific duties and responsibilities delegated to service directors

15.1 Service directors are accountable for the services set out below. They will delegate specific responsibilities to heads of service. The responsibilities delegated to heads of service are set out in their job descriptions.

16.0 Finance & Corporate Services

16.1 The Director has overall responsibility for the following services.

- Strategy & Customer Services
- Support Services

16.2 Specific responsibilities delegated to the heads of service

16.3 Providing administrative support to the council and council committees, policy forums and strategic working groups, and to scheduled meetings of senior management.

16.4 Acting as a clerk to the council.

16.5 Election administration (in line with instructions from the returning officer).

16.6 Organising and running civic ceremonies.

16.7 Providing support services for councillors.

16.8 Providing legal services to the council and council services.

16.9 Running the Children's Panel Advisory Committee and providing support

services to the Children's Panel and the Panel of Safeguarders.

- 16.10 Providing legal advice to the Joint Valuation Board.
- 16.11 Making sure we keep to the Data Protection, Freedom of Information and Regulation of Investigatory Powers (Scotland) Act 2000.
- 16.12 Making arrangements for receiving and holding tenders, in line with our contract standing orders.
- 16.13 Registering births, deaths and marriages.
- 16.14 Delivering, managing and promoting library, community and museum services
- 16.15 Charging fees for providing library services in line with our policies
- 16.16 Managing public trusts (financial arrangements).
- 16.17 Providing policy support to the council and its services.
- 16.18 Community planning.
- 16.19 Providing a research and information service to the council and its services.
- 16.20 Managing regeneration programmes.
- 16.21 Managing the Clacks 1000 Citizens' Panel, Clacks Business Panel and coordinating local forums.
- 16.22 Managing, developing and promoting arts programmes.

- 16.23 Running a system for charging people to take part in arts and community programmes and for helping to fund these, in line with our policies.
- 16.24 Running the corporate complaints procedures.
- 16.25 Giving the council and its services advice on European funding and policies.
- 16.26 Providing communication services (including managing and developing 'Clacksweb') and dealing with the media.
- 16.27 Collecting Council Tax and National Non-Domestic Rates.
- 16.28 Authorising warrants and charges for unpaid Council Tax and National Non-Domestic Rates.
- 16.29 Processing applications for Housing Benefit and Council Tax Benefit.
- 16.30 Providing for doubtful debt (debt that we may not be able to collect).
- 16.31 Accounting and budgeting.
- 16.32 Revenues (all sources of income).
- 16.33 Paying invoices.
- 16.34 Payroll (systems to make sure our employees are paid correctly and we provide accurate returns to HM Revenue & Customs).
- 16.35 Managing the loans fund.

- 16.36 Managing finance and operating leases (legal agreements).
- 16.37 Borrowing and lending funds to meet the council's needs.
- 16.38 Arranging the insurance we need.
- 16.39 Maintaining complete and wide-ranging HR management policies and procedures.
- 16.40 Promoting equal opportunities.
- 16.41 Providing advice on corporate and organisational development.
- 16.42 Keeping to health and safety laws and following good practice.
- 16.43 Setting up and maintaining the council's systems for planning services and managing performance.
- 16.44 Maintaining electronic records and exchanging information with partners we work with outside the council.
- 16.45 Improving customer service.
- 16.46 Introducing and maintaining procurement policies and procedures.
- 16.47 Managing information technology services provided to the council.
- 16.48 Providing an internal audit of our services.
- 16.49 Investigating fraud.

17.0 Services To Communities

17.1 The director has overall responsibility for the following services:

- Community & Regulatory
- Facilities Management

17.2 Specific responsibilities delegated to the heads of service

17.3 Carrying out our duties as a planning authority, including making decisions on planning applications and enforcing planning laws, subject to the following:-

As appointed persons for the purposes of Section 43A(1) of the Town and Country Planning (Scotland) Act 2007 as amended, the Director of Services to Communities, Development Service Manager, and Development Management Team Leader are authorised to make decisions on all applications made under the planning and related Acts other than where:-

- (i) The application relates to a "national development" as defined by Section 3A of the Act;
- (ii) The application relates to a "major development" as defined in the Schedule to the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2008 which is significantly contrary to the development plan;
- (iii) The application is by the Council or involves development of land in which the Council has a financial, land ownership or other interest;
- (iv) The application is by a member of the Council.

17.4 Giving the council advice on land use and planning matters.

17.5 Preparing, introducing, monitoring and reviewing the development plan.

- 17.6 Monitoring planning permission and other permissions, and taking enforcement action under Part V1 and V11 of the 1997 Act, including serving notices, taking direct action and prosecuting people for not keeping to such notices
- 17.7 Carrying out our duties under the terms of the Building (Scotland) Acts and related laws.
- 17.8 Managing the powers we have under the following sections of the Civic Government (Scotland) Act 1982, Chapter 45
- Section 87 - Buildings in need of repair
 - Section 89 - Safety of platforms
 - Section 90 - Lighting of common stairs
 - Section 96(b) - Powers of entry to carry out work on statues and monuments
 - Section 97 - Naming or altering street names and house numbers
 - Section 99 - Powers of entry to private property to execute work and recover expenses
 - Section 100 - Entitlement to recover expenses and charge reasonable interest from the date of the demand for payment
 - Section 101 - Reporting of offences relating to powers of entry and carrying out of works
 - Section 106 - The right of appeal against a notice served under the Civic Government (Scotland) Act 1982
- 17.9 Carrying out our duties under the Safety of Sports Grounds Act 1975.
- 17.10 Carrying out our duties to protect public health, safety and welfare, as set

out in the Public Health Act 1897, the Health and Safety at Work Act 1974, the Water (Scotland) Act 1980, the Food Safety Act 1990, the Food Standards Act 1999, the Pest Control Act 1949, the Clean Air Act 1956, the Environmental Protection Act 1990, the Environment Act 1995 (and any new laws or amendments that come into force).

- 17.11 Licensing 'Houses in Multiple Occupation' (properties that more than one household live in) and registering private landlords under section 84 of the Anti-Social Behaviour Act 2004.
- 17.12 Carrying out our duties as a waste authority under the Environmental Protection Act and any regulations or orders made under it, including the following:-
- Sections 87 and 88 – Fixed Penalty Notices
 - Section 33 – Illicit dumping
 - Section 59 – Notice to remove waste
 - Section 34B – Duty of care to furnish documents
 - Section 46 – Service of notice for providing and using waste receptacles
- 17.13 Carrying out our duties under the Burial Grounds (Scotland) Act 1855 to provide and manage burial grounds.
- 17.14 Carrying out duties and exercising powers under The Land Reform (Scotland) Act 2003.
- 17.15 Carrying out our duties under trading standards and consumer protection laws (for example, the Consumer Protection Act 1987, Fair Trading Act 1973, Petroleum (Consolidation) Act 1928, Trades Description Act 1968, and the Weights and Measures Acts 1979 and 1985) and any new laws or amendments that come into force.

- 17.16 Manage our roles and responsibilities relating to the following
- Land services
 - Public conveniences and amenity services
 - Public transport
 - Street lighting and street care
 - Transport and fleet management
 - Other responsibilities we have in relation to environmental services
- 17.17 Carrying out our duties as a roads authority.
- 17.18 Running the concessionary-fares scheme for public transport.
- 17.19 Carry out our duties relating to public health and related matters.
- 17.20 Agreeing terms for getting the heritable property (land and buildings) we need for any of our duties if the cost before fees is no more than £150,000 for each property, and where this action is within the approved capital programme.
- 17.21 Agreeing settlements for compensation claims under the Land Compensation (Scotland) Acts and related laws when the amount of compensation, not including fees and costs, is no more than £150,000 for each property or the total cost is within the amount approved by us for such claims.
- 17.22 Settling claims for professional fees and costs in connection with buying and selling land, and compensation claims of up to £15,000.
- 17.23 Agreeing terms for granting or taking 'minutes of waiver', and for granting or taking 'wayleaves' or 'servitude rights', as long as the amount involved, not including fees and costs, is no more than:

- £20,000 in the case of a one-off payments; or
 - £5,000 in the case of a yearly payment.
- 17.24 Agreeing terms for granting, taking or renewing leases and tenancies of land or buildings, within the limits of the relevant budget.
- 17.25 Agreeing all matters arising from leasing a property, including reviewing rents and granting permission for transferring leases, sublettings, change of use and alterations, ending leases, evicting tenants from our properties, and recovering overdue rent and other charges.
- 17.26 Agreeing terms for disposing of heritable property or grant wayleaves and servitude rights up to a value of £25,000 (not including costs).
- 17.27 Agreeing terms to dispose of property with an estimated value of more than £25,000 (If the sale is at less than market value or the highest offer is not to be accepted, the matter is referred to the full council).
- 17.28 Managing and supervising performance of services relating to environment and engineering contracts.
- 17.29 Managing and supervising our Property Contracts Unit.
- 17.30 Managing and supervising building, cleaning and catering services.
- 17.31 Providing the following services:-
- Architecture and Design
 - Mechanical and Electrical Engineering
 - Property Maintenance and Energy Services

- 17.32 Managing leisure centres, sports facilities, community centres and museums.
- 17.33 Carrying out the council's civic government licensing role under the Civic Government (Scotland) Act 1982.
- 17.34 Providing Clackmannanshire Licensing Board with such services as are required for carrying out their alcohol and gambling licensing functions under the Licensing (Scotland) Act 2005 and Gambling Act 2005 with the exception of the role of the Clerk.
- 17.35 Managing the HRA portfolio and identified properties from the Housing General Fund
- 17.36 Introducing and delivering the Business Plan in conjunction with Services to People which supports the policy on our housing, as agreed by tenants and us.
- 17.37 Meeting the Scottish Housing Quality Standard by 2015 for all of our housing.
- 17.38 In conjunction with Services to People, putting in place the parts of the Community Planning framework aimed at regeneration providing housing solutions in those areas and supporting work between partners. 17.38
- 17.39 Providing a strategy for matters relating to energy efficiency.
- 17.40 Supporting and arranging a Care and Repair Programme in conjunction with Services to People.
- 17.41 Addressing the demand for 'Housing Renewal Areas', the Tolerable Standard, the Scottish Housing Quality Standard, repairing standards,

repairing standards maintenance and repairing orders, conversions and improvements.

17.42 Leading and developing the strategy for housing in the area and monitoring and assessing the outcome.

17.43 Providing a central contact for the Scottish Government to assess housing needs, plan for providing affordable housing, and set targets in the 'Local Housing Strategy'.

17.44 Processing tenants' applications to buy their home under the 'Right to Buy' scheme.

17.45 Working with other services and agencies to carry out our duties under the Antisocial Behaviour (Scotland) Act 2004.

17.46 Carrying out our duties under the following :-

- Housing Associations Act 1985
- Housing (Scotland) Act 1987
- Housing (Scotland) Act 1988
- Asylum and Immigration Act 1996
- Housing (Scotland) Act 2001
- Homelessness etc (Scotland) Act 2003
- Antisocial Behaviour etc. (Scotland) Act 2004

17.47 Delivering leisure services.

17.48 Running a system for charging people to take part in leisure and environmental programmes and for helping to fund these, in line with our policies.

18.0 Services to People

18.1 The director has overall responsibility for the following.

- Education Services
- Social Policy

18.2 Specific responsibilities delegated to the heads of service

18.3 Delivering education and youth services.

18.4 Managing our policies as an education authority and taking any action necessary to carry out our duties under the Education (Scotland) Act 1980 (as amended) and the Standards in Scotland's Schools etc Act 2000.

18.5 Providing guidelines and policies in response to Scottish Government and other consultations on the curriculum, developing the curriculum, and carrying out associated work.

18.6 Making decisions on requests for school places, in line with legal requirements and any guidelines we have.

18.7 Exercising the powers available to us to exclude pupils from schools.

18.8 Carrying out our duties under section 58 of the Education (Scotland) Act 1980, relating to the cleanliness of pupils in schools.

18.9 Carrying out our duties under section 53 of the Education (Scotland) Act 1980, relating to providing school meals.

18.10 Exercising our powers, under section 36 of the Education (Scotland) Act 1980, relating to pupils' attendance.

- 18.11 Carrying out our duties under section 37 of the Education (Scotland) Act 1980, relating to educating children at home.
- 18.12 Exercising our powers, under section 23 of the Education (Scotland) Act 1980, relating to providing education to people living in the areas of other councils, other councils providing education to people who normally live in Clackmannanshire, and making and receiving fees for this.
- 18.13 Arranging school transport in line with legal requirements and our policies.
- 18.14 Carrying out our duties relating to parent forums, in line with the Scottish Schools (Parental Involvement) Act 2006.
- 18.15 Issuing licences under the Children (Performances) Regulations 1968.
- 18.16 Arranging for our responsibilities relating to the Clackmannanshire Educational Trust Scheme 1957 being met (depending on the terms of any order made under the 1994 Act).
- 18.17 Setting appropriate charges for music lessons and similar services.
- 18.18 Carrying out our duties as an education authority under the Education (Scotland) Act 1980, as amended, the Education (Additional Support for Learning) (Scotland) Act 2004, and any other law relating to providing education and support for children with extra support needs.
- 18.19 Making arrangements for placing children with extra support needs in schools (including, where appropriate, residential schools) not managed by us.
- 18.20 Approving co-ordinated support plans for individual pupils.

- 18.21 Providing an educational psychology service.
- 18.22 Making arrangements for entering pupils for public examinations.
- 18.23 Paying fees and other costs (as necessary) in connection with public examinations.
- 18.24 Carrying out our legal duties relating to preschool children with extra support needs.
- 18.25 Offering places, in line with criteria agreed by us, in nurseries and family centres managed by us.
- 18.26 Providing, within available resources, for out-of-school care and similar services.
- 18.27 Setting appropriate charges for pre-school services.
- 18.28 Developing educational opportunities for adults.
- 18.29 Encouraging the development of training opportunities in the community.
- 18.30 Liaising and co-operating with institutions of further and higher education, voluntary organisations, enterprise companies and other appropriate agencies to develop training and adult education.
- 18.31 Setting appropriate charges for adult education classes.
- 18.32 Deciding on the level of grants to individuals and organisations within the community, up to a maximum decided by us.

- 18.33 Carrying out our duty, under section 54 of the Education (Scotland) Act 1980, relating to providing clothing for pupils attending public schools.
- 18.34 Making grants to pupils so they can go on courses, to conferences and on educational visits, in the UK and abroad, where our policies and resources allow this.
- 18.35 Deciding how educational trusts run by us will distribute their funds in line with the relevant trust schemes.
- 18.36 Carrying out our duties relating to managing, assessing and awarding higher school bursaries (grants).
- 18.37 Making arrangements for school catchment areas to be agreed and pupils to be transferred from primary school to secondary school.
- 18.38 Managing, developing and promoting sports and leisure facilities and services in schools and other educational establishments.
- 18.39 Managing, developing and promoting youth services.
- 18.40 Running a system for charging people to take part in, recreational, sports, and community programmes, and for helping to fund these, in line with our policies.
- 18.41 Approving the involvement of teaching staff in recognised programmes outwith the UK.
- 18.42 Approving applications (from head teachers or suitably qualified youth workers employed by us) for permission for staff to accompany groups of school pupils or other young people on recognised exchanges or

excursions outwith the UK.

- 18.43 Approving applications from suitably qualified staff to take part in UK or EU or similar programmes of study visits outwith the UK.
- 18.44 Managing housing services for council tenants in line with housing laws and council policies.
- 18.45 Letting council houses.
- 18.46 Assessing homelessness and managing the assessment process.
- 18.47 Managing temporary tenancies
- 18.48 Arranging property provided to homeless clients on a temporary basis, arranging support services, furnishings and transfers to permanent accommodation.
- 18.49 Providing a Homelessness Strategy in conjunction with Community & Regulatory Services aimed at preventing and ending homelessness in a way which forms a clear partnership with related services.
- 18.50 Taking assessed referrals of vulnerable homeless people and providing support services for vulnerable homeless people to standards set by the Scottish Commission for the Regulation of Care.
- 18.51 Making sure that Homeless Services meet the standards laid down by the Scottish Government.

- 18.52 In conjunction with Community & Regulatory Services, developing the common housing register.
- 18.53 Carrying out a range of duties and responding to homelessness and antisocial behaviour, out of office hours.
- 18.54 Authorising expenses, under the Housing Act 1994, to people who are old, disabled or in poor health.
- 18.55 Making a decision on a person's application for structural adaptations to their home in conjunction with Community & Regulatory Services
- 18.56 Making sure local housing support services meet the standards set locally and by the Scottish Commission for the Regulation of Care.
- 18.57 Providing the Occupational Therapy Service to assess the needs of older and disabled tenants and providing disabled adaptations in conjunction with Services to Communities.
- 18.58 Providing the Money Advice Service which gives advice on money and welfare benefits and making the most of an income
- 18.59 Carrying out our duties under the following :-
- The Social Work (Scotland) Act 1968
 - The Chronically Sick and Disabled Persons Act 1970
 - The National Health Service and Community Care Act 1990
 - The Disabled Persons (Employment) Act 1958
 - The Adoption (Scotland) Act 1978 (as amended)
 - The Adoption and Children Act 2002
 - The Adoption and Children (Scotland) Act 2007
 - The Foster Children (Scotland) Act 1984

- The Mental Health Care and Treatment (Scotland) Act 2003
- Regulation of Care (Scotland) Act 2001
- Community Care and Health (Scotland) Act 2002
- The Adults with Incapacity (Scotland) Act 2000
- The Adult Support and Protection (Scotland) Act 2007
- The Children Act 1989
- The Children (Scotland) Act 1995
- The Criminal Justice (Scotland) Act 1980
- The Criminal Procedure (Scotland) Act 1995
- Housing Associations Act 1985
- Housing (Scotland) Act 1987
- Housing (Scotland) Act 1988
- Asylum and Immigration Act 1996
- Housing (Scotland) Act 2001
- Homelessness etc (Scotland) Act 2003
- Antisocial Behaviour etc. (Scotland) Act 2004
- Housing (Scotland) Act 2006

18.60 Managing our approved policy relating to getting Permanence Orders under the Adoption & Children (Scotland) Act 2007 and Child Protection Orders under the Children (Scotland) Act 1995 (or any new or amended law that replaces it).

18.61 Entering into contracts, with private and voluntary agencies, for carrying out our duties under the National Health Service and Community Care Act 1990.

18.62 Making decisions, in consultation with the Section 95 Officer, on applications for changing maintenance rates for private or voluntary homes not covered by the National Health Service and Community Care Act 1990.

- 18.63 Setting fees for curators ad litem (people appointed by the courts to provide a report), safeguarders (people appointed by the Children's Panel or the court to provide a report), foster parents and community carers.
- 18.64 Setting the levels of grants to individuals and organisations.
- 18.65 In line with government guidelines, maintaining the Child Protection Register of children most in need of protection from abuse.
- 18.66 Making decisions on formal complaints.
- 18.67 Taking responsibility for providing Community Care Services, including assessments of needs and the care to meet these assessed needs.
- 18.68 Maintaining appropriate standards of care.
- 18.69 Taking responsibility for arrangements for Community Care Services.
- 18.70 Co-operating with the local Community Justice Authority to promote best practice in providing Criminal Justice Services.
- 18.71 Getting appropriate resources from the Criminal Justice Authority for our part in providing Criminal Justice Services in Clackmannanshire.
- 18.72 Working with the Community Justice Authority partners to pool resources and work together when this is in the best interests of our Criminal Justice Service.

Scheme of delegation - part 3f

19.0 General duties delegated to directors

- 19.1 For the purposes of this section, the term 'director' includes the Chief Executive.
- 19.2 Directors can delegate duties to heads of service within their directorates, depending on the particular head's suitability, qualifications and experience. The authority delegated to each head of service will be defined by a job profile approved by the Chief Executive, within the limits on the Chief Executive's authority set out in section 3c of this scheme of delegation. The appointments set out in section 3g of this Scheme of Delegation must have specific approval from the council.
- 19.3 The Chief Executive and directors have overall responsibility for the following.**
- 19.4 Using approved resources as they think fit for carrying out their duties.
- 19.5 Co-ordinating and managing their services.
- 19.6 Appointing all staff below head of service level, in line with procedures set by us.
- 19.7 Reviewing the performance of services and developing services.
- 19.8 Delegating duties under the standing orders, relating to contracts entered into, and issuing orders for providing goods and services.
- 19.9 Transferring amounts between budgets in their control.

- 19.10 Delegating duties as set out in our financial regulations, for normal working practices.
- 19.11 Authorising the payment of bills for goods and services we have received.
- 19.12 Advising the Director of Finance & Corporate Services about any unusual financial obligations that will affect us.
- 19.13 Making sure the services keep to EU and UK statutory or legal requirements.
- 19.14 Responding to consultation documents within the set time limit.
- 19.15 Organising safe working procedures and processes within the current health and safety policies.
- 19.16 Maintaining proper security for staff, buildings, stocks, stores, furniture, equipment and similar items (if special arrangements are needed there should be consultation with the Director of Finance & Corporate Services and the Head of Facilities Management).
- 19.17 Making decisions on complaints made under our complaints procedure.
- 19.18 Reviewing our actions and decisions and dealing with requests for information under the Freedom of Information (Scotland) Act 2002.
- 19.19 Making sure council policies and procedures are consistent and are followed.

Scheme of delegation - part 3g

20.1 General delegations to heads of service

20.1 Authority delegated to directors may then be delegated on to heads of service. The roles and tasks that are delegated to heads of service are as contained within individual job profiles.

20.2 Heads of service must make sure that they keep to:

- relevant laws, guidance and codes of practice;
- the procedural rules of their service;
- our contract standing orders and financial regulations;
- our standing orders;
- our human resources policies and procedures;
- all relevant plans and policies we have adopted;
- all other approved codes and procedures;
- the approved budget;
- the approved service plan; and
- the rules on access to information, data protection and freedom of information.

20.3 They must set and maintain service standards to meet our priorities.

20.4 When carrying out the duties delegated to them, heads of service must consult other officers if their actions will affect the responsibilities of another head of service.

20.5 Where a head of service has been delegated authority, he or she may authorise any member of his or her staff to act on their behalf. Any head of service using delegated authority will be fully responsible to the council for their actions and those of any officer they delegate the duties to.

20.6 Heads of service have delegated responsibility for the following.

- Putting individual business plans into place and providing services set out in this Scheme of Delegation.
- Spending the approved budget appropriate to the post.
- Applying for and accepting grants or a challenge fund, as long as these do not give rise to future financial commitments that we have to meet, or do not need us to provide equal funding that cannot be met from existing budgets.
- Managing the service within the policies agreed by us.
- Buying in supplies and services in line with our financial regulations and contract standing orders.
- Entering into contracts in line with our contract standing orders.
- Promoting, marketing or presenting events.
- Managing and developing the workforce within their service areas.
- Contributing to the development of corporate policies and procedures through the Council Management Team.
- Setting charges and fees to make sure the needs of the budget are met.
- Authorising the production of publications relating to the service being provided.

20.7 Conflict of interest

20.8 If someone applying for a council service is a councillor or a council employee, before making a decision on the application the office should consider whether they need to consult the Monitoring Officer (the Head of Strategy & Customer Services), who will decide whether the application should be referred to the full council or an appropriate committee.

20.9 Job applications

20.10 If a job applicant is a relative of either a councillor or a council employee, before making a decision on the application officers must consider whether they need to consult the Head of Support Services, who will decide if the application should be referred to council.

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Scheme of delegation – part 3h

21.0 Statutory appointments of officers

21.1 Under various laws we must appoint officers for a variety of purposes.

Officers appointed to perform these roles are authorised to take the actions that are an essential part of their roles. The ‘statutory appointments’ that we have made are set out in this section.

Relevant law	Role	Proper officer
Social Work (Scotland) Act 1968 Section 3	Chief Social Work Officer	Head of Social Policy
Local Government (Scotland) Act 1973 Section 33a	Proper officer for receiving councillors’ declarations that they accept their role (declaration of acceptance of office)	Chief Executive Head of Strategy & Customer Services Principal Administration Officer
Section 33a(3)	Officer the declaration of acceptance of office can be made to	Chief Executive Head of Strategy & Customer Services
Section 34	Proper officer for receiving councillors’ resignations	Chief Executive
Section 40	Proper officer for receiving general notices from councillors about any financial interest in a matter, and for recording the councillors’ interests	Head of Strategy & Customer Services
Section 43 and paragraph 1 (4) of schedule 7	Proper officer for receiving requests for special council meetings	Head of Strategy & Customer Services
Section 43 and paragraph 2 (1) of schedule 7	Proper officer for signing summonses to special council meetings	Head of Strategy & Customer Services

Section 43 and paragraph 2 (2) of schedule 7	Proper officer for receiving a councillor's notice of an alternative address	Head of Strategy & Customer Services
Section 50b	Proper officer for preventing reports containing sensitive information from being available to the public, and for providing documents to the press	Chief Executive/Director in consultation with Legal Services Manager
Section 50c	Proper officer for providing a written summary when the minutes of a meeting cannot be made available to the public	Head of Strategy & Customer Services
Section 50f	Proper officer for deciding which documents are not open to inspection	Chief Executive/Director in consultation with Legal Services Manager
Section 92	Proper officer for transferring securities	Director of Finance & Corporate Services
Section 95	Proper officer for managing our financial affairs	Director of Finance & Corporate Services
Section 145	Proper officer for asking Ordnance Survey for information	Director of Services to Communities
Section 190	Proper officer for serving notices on the council and starting legal proceedings	Chief Executive Chief Officers
Section 191	Proper officer for signing any claim on behalf of the council in any sequestration (property taken from the owner to cover a debt or to keep to a court order),	Chief Executive/Director of Finance & Corporate Services in consultation with Legal Services Manager

	liquidations (where assets are sold off to help repay debts) and similar proceedings where we are entitled to make a claim	
Section 193	Proper officer for signing notices, orders and so on	The Director responsible for the service the notice, order and so on relates to in consultation with Legal Services Manager
Section 194	Proper officer for signing deeds and using the council's seal	Legal Services Manager
Section 197	Proper officer for arranging for documents to be inspected and filed	Head of Strategy & Customer Services
Section 202	Proper officer for confirming that byelaws are valid and for sending copies to other relevant authorities	Legal Services Manager
Section 202B	Proper officer for putting valid byelaws in the register of byelaws	Head of Strategy & Customer Services
Section 204	Proper officer for providing certificates as evidence of byelaws	Legal Services Manager
Section 206	Proper officer for keeping a register of people who are made 'freemen' of the area	Head of Strategy & Customer Services
Section 231	Proper officer for asking the Sheriff about matters arising from the Local Government (Scotland) Act 1973	Chief Executive/Director in consultation with Legal Services Manager

Licensing (Scotland) Act 2005

Paragraph 8(1)(a) of Schedule 1	Clerk to the Licensing Board	Legal Services Manager
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Civic Government (Scotland) Act 1982

Section 113	Proper officer for keeping evidence of management rules	Head of Strategy & Customer Services
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**Ethical Standards in Public Life Etc (Scotland) Act 2000 (Register of
Interests) Regulations 2003**

Section 7(1)	Proper officer for setting up and keeping the register of councillors' business, personal and financial interests, and making these available to the public	Head of Strategy & Customer Services
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Representation of the People Act 1983

Section 41	Returning Officer	The person appointed by us, presently postholder of Chief Executive
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Weights and Measures Act 1985

Section 72(1)(a)	Chief inspector of weights and measures	Director of Services to Communities
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Local Government and Housing Act 1989

Section 2	Proper officer for keeping lists of posts that are politically restricted (limited activities)	Head of Support Services
Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Head of Strategy & Customer Services in consultation with Legal Services Manager

Section 19	Proper officer for receiving notices of councillors' business, personal and financial interests and keeping records of them	Head of Strategy & Customer Services
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Environmental Protection Act 1990

Section 149(1)	Officer appointed to carry out our role of dealing with stray dogs in the area	Director of Services to Communities
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Local Authorities (Contracts) (Scotland) Regulations 1997,

Regulation 4	Proper officer for certification purposes (powers to enter into a contract or other matters)	Head of Strategy & Customer Services in consultation with Legal Services Manager
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The Scottish Local Government Elections Order 2007

Rule 57	Proper officer for receiving all election-related documents after an election	Chief Executive
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The Regulation of Investigatory Powers (Scotland) Act 2002

Section 6	Authorising Officer Directed Surveillance	Chief Executive Director Head of Strategy & Customer Services in consultation with Legal Services Manager (may not be delegated further)
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Section 7	Authorising Officer Covert Human Intelligence Sources	Chief Executive Director Head of Strategy & Customer Services (may not be delegated further)
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21.2 The proper officers appointed for the roles set out in part 3h cannot delegate their duties to other officers. However, if they cannot carry out their delegated duties because they are not available, the following officers will carry out their duties :-

Proper officer appointed for the roles set out in part 3h

Officer who will carry out duties if the proper officer is not available

If the Chief Executive is not available for election purposes

- The Head of Strategy & Customer Services

If the Head of Strategy & Customer Services is not available to act as the monitoring officer

- The Chief Executive

If a director is not available to act as an officer

- The relevant head of service

If a Legal Services Manager is not available to act as Clerk to the Licensing Board.

- Solicitor

If the Head of Strategy & Customer Services is not available to act as the proper officer for certification purposes

- Legal Services Manager

If the Chief Social Work Officer is not available

- Senior Social Work Manager

If the Director of Finance & Corporate Services is not available.

- Finance Service Manager

If the Chief Executive is not available to act as the Head of Paid Service.

- Director as agreed